

1 SUPERIOR COURT OF THE STATE OF CALIFORNIA
2 FOR THE COUNTY OF SANTA BARBARA
3
4

5 Coordination Proceeding Special Title,)
(Rule 1550(b)))
6)
7 In re Tobacco Cases II)
_____) JCCP No. 4042
8)
The People of the State of California,)
9 et al. v. Brown & Williamson Tobacco)
Corp., et al. (SF No. 996781))
10)
And)
11)
People of the State of California,)
12 et al. v. Philip Morris Inc., et al.)
(LA No. BC 194217))
13 _____)
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18 Deposition of LORRAINE WALDAU, Volume I, taken
19 on behalf of Defendants, at 9:35 a.m., Tuesday,
20 April 4, 2000, at 411 East Carrillo Street, Santa
21 Barbara, California, before MARTHA A. ADAMS,
22 CSR 10345, Certified Shorthand Reporter for the State
23 of California.
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2

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1 LORRAINE WALDAU,
 2 having been first duly sworn by the Certified
 3 Shorthand Reporter, testified as follows:

4
 5 EXAMINATION

6
 7 BY MR. LERNER:

8 Q. Would you please state your full name for
 9 the record.

10 A. Uh-huh. Lorraine Bostick, B-o-s-t-i-c-k,
 11 Waldau, W-a-l-d-a-u.

12 Q. What's your address -- is it Ms. Waldau?

13 A. Ms., Mrs., whichever. Doesn't matter.

14 Q. Okay. Mrs. Waldau, what's your address,

15 please?
16 A. [DELETED]
17
18 Q. Is that your business address?
19 A. Correct. It's home and business. I'm a
20 consultant.
21 Q. Have you ever had your deposition taken
22 before?
23 A. Yes, I have.
24 Q. Okay. Have you had a chance to meet with
25 counsel before today's deposition to discuss the
26 procedures?
27 A. No.
28 Q. Okay. Let me just -- how many times have

5

1 you taken --
2 A. One.
3 Q. -- had your deposition taken before?
4 A. One.
5 Q. How long ago?
6 A. Eight or nine years.
7 Q. Well, given that, let me refresh your
8 recollection about the procedures. Your testimony
9 today is under oath. It's being given as though it
10 were in court, only there's no judge present. We
11 should just for the sake of the court reporter try not
12 to talk over each other.
13 A. Okay.
14 Q. If you're going to -- if the court
15 reporter's going to be able to take down your answers
16 or my questions, we have to both say them audibly. So
17 a nod of the head will not communicate anything. I
18 will be trying to ask you questions as clearly and
19 concisely as possible.
20 But given my unfamiliarity with some of
21 the subject matter and my human frailty, I'm not going
22 to be successful all the time. I only ask that you
23 try to answer the questions as best you can to the
24 best of your recollection. But if there's something
25 you don't understand or doesn't make any sense to you,
26 please ask me to restate it.
27 Or tell me you don't understand, and I
28 will definitely try to say something that does make

6

1 sense.
2 A. Sounds good.
3 Q. All right. Now, your testimony today as
4 I mentioned is being given as though it were in court.
5 However, there is a difference in that if after your
6 testimony is transcribed by the court reporter you
7 make any changes to it, we'll have an opportunity to
8 comment on those changes in court.
9 A. Okay.
10 Q. All right? Now, I'd like to have marked
11 as Exhibit 1 a copy of the deposition subpoena for
12 today's deposition.
13 (Discussion off the record.)
14 MR. LERNER: We've corrected the numbering.
15 What I've referred to as Exhibit 1 is actually
16 Exhibit 159.
17 Q. Have you had an opportunity to see

18 Exhibit 159 before, Ms. Waldau?
19 A. Yes, I have.
20 (Defendants' Exhibit 159 was
21 marked for identification.)
22 Q. Okay. And have you been designated as
23 the person most knowledgeable for the Santa Barbara
24 County Office of Education for this deposition?
25 A. Yes, I have.
26 Q. Who made that designation?
27 A. Wynelle Chase.
28 Q. And Ms. Chase --

7

1 MR. LERNER: Mrs. Chase?
2 MS. CHASE: Doctor.
3 BY MR. LERNER:
4 Q. Dr. Chase -- excuse me -- is here today?
5 A. Yes.
6 Q. And what is Dr. Chase's role in the
7 Education Office?
8 MS. CHASE: Can I respond?
9 MR. LERNER: Yeah. That's fine. Why don't you
10 go ahead.
11 MS. CHASE: Assistant superintendent, human
12 resources.
13 MR. LERNER: Okay. Okay.
14 Q. In preparing for the deposition today,
15 have you made any investigation with regard to the
16 matters which were subject of the notice?
17 A. Made investigation in terms of the -- the
18 cases itself or --
19 Q. Okay. Well, with regard to the -- with
20 regard to the documents requested relating to
21 environmental tobacco smoke.
22 A. I have brought documents regarding the --
23 what was requested.
24 Q. All right. Did you speak with anyone
25 to -- about this deposition before you came here
26 today?
27 A. I asked on our list serve for county
28 coordinators if anybody else had -- had been called

8

1 and received a response that Monterey County had been
2 called in, Santa Clara County had been called. And
3 the -- Jerry Kilbert from the Healthy Kids Office and
4 the California Department of Education responded
5 saying it was a suit because of Proposition 65.
6 Q. Okay.
7 A. And I did talk to Dawn Dunn at the Public
8 Health Department to let her know that I had been
9 called and to find out if she had been called, and I
10 have not talked to her since.
11 Q. Okay.
12 A. And obviously I talked to Wynelle Chase.
13 Q. And what did you hear from Monterey
14 County concerning this lawsuit?
15 A. Just that they had been called and that
16 it was strictly about environmental tobacco smoke and
17 really not much. They just answered when I had asked,
18 you know, had anybody else been called.
19 Q. And what did you hear from Santa Clara
20 County?

21 A. Same thing. It was just an e-mail
22 response that they had been called also.
23 Q. What position did Mr. Kilbert occupy in
24 the Healthy Kids Office?
25 A. He's the director of the Healthy Kids
26 Program. I don't know what his official title is. He
27 would be the person who's in charge of the Tobacco and
28 the Safe and Drug-Free Schools Program.

9

1 Q. You've worked with him before?
2 A. Yes.
3 Q. What did he say about this case?
4 A. He explained a little bit about Prop 65
5 being -- and that basically what the suit was about
6 was that the suit was claiming that there should have
7 been notices posted for environmental tobacco smoke.
8 And so they were contacting the health departments and
9 the county education offices to see what kind of
10 coverage there had been in terms of secondhand smoke
11 to the -- for us would be with the school population.
12 That's what I deal with.
13 Q. You deal with school children you mean?
14 A. No. I deal with the different
15 administrators of the districts that are responsible
16 for the Safe and Drug-Free Schools and the Tobacco
17 Education Program.
18 Q. Okay. When you said -- you mentioned
19 that you asked on your list serve about the case.
20 What do you mean by list serve?
21 A. We have all 52 county coordinators for
22 the two programs -- Safe and Drug-Free Schools and
23 TUPE -- on a list serve along with the state
24 Department of Education consultants that work with our
25 programs and the consultants that work for WestEd
26 which is kind of a resource center for us.
27 Q. So the list serve is an address list of
28 computer addresses?

10

1 A. Yeah.
2 Q. And it contains the names of the 52
3 county coordinators for the two programs you
4 mentioned?
5 A. Uh-huh.
6 Q. As well as WestEd consultants?
7 A. WestEd consultants and the California
8 Department of Ed. consultants that are responsible for
9 our programs.
10 Q. Is there anyone else whose name appears
11 on the list serve?
12 A. I'm not sure I understand.
13 Q. Are there other people who are on the
14 list serve?
15 A. There could be. I have no idea. I was
16 put on as one of the 52 county coordinators. So I
17 don't know if WestEd or CDE has added other people.
18 Q. Who are the Department of Education
19 persons who are on the list serve?
20 A. Well, it would probably be Jerry Kilbert,
21 Greg Wolf, Rae Kine, R-a-e, Bruce Gordon and D.J.
22 Petersen and -- oh, gosh. What's her name? -- Ruth
23 Bowen.

24 Q. And the people from the Department of
25 Education you mentioned are the persons that
26 communicate with you concerning the TUPE and Safe and
27 Drug-Free School Programs?
28 A. Correct.

11

1 Q. How long has the list serve been used for
2 such communications to your knowledge?

3 A. Probably about -- this is -- we're in our
4 second year.

5 Q. Okay. All right. Well, I think I need
6 to get a little more background on you so as I -- I
7 don't have to ask you individual questions like that.
8 What's your present position in relation to the
9 Education Office?

10 A. I am on contract as the county Safe and
11 Drug-Free Schools and Tobacco-Use Prevention Education
12 coordinator. And that's a part-time consultant
13 position. And I'm also on contract with the Santa
14 Barbara County Education Office in a smaller way as
15 co-op director which means that I help our small
16 school districts with their funding applications and
17 serve as a liaison for them.

18 Q. So you hold two separate positions?

19 A. Right.

20 Q. Both are consulting positions?

21 A. Correct.

22 Q. Let's take the first position. That's a
23 position where you're retained with respect to two
24 separate education programs?

25 A. Correct. Two categorical programs.

26 Q. All right. What's your responsibilities
27 with regard to the Safe and Drug-Free Schools Program?

28 A. Well, I actually have two -- I can tell

12

1 you briefly, but I could also give you a page that
2 lists what I'm legally required to provide for both of
3 the programs that I have to sign. And there's 16 or
4 10 things on each program that I'm responsible for.

5 MR. LERNER: Let's go off the record for a
6 second.

7 (Discussion off the record.)

8 (At this time Mr. L'Orange
9 exited the deposition room.)

10 MR. LERNER: Back on the record.

11 Q. You've produced a document that we're
12 having duplicated right now, and we'll return to the
13 subject of your duties with regard to the Safe Program
14 when the document has been marked and you can review
15 it again.

16 A. Okay.

17 Q. Can you tell me what your duties are with
18 respect to the -- you mentioned co-op director for
19 small schools.

20 A. Yes.

21 Q. What are your duties there?

22 A. I have a little less than one hour a week
23 that I devote to this project. So the basic things
24 that I do for the County Education Office are to help
25 these small school districts complete the -- what's
26 called the Consolidated Application Part 1 and Part 2

27 which is their application for funding for categorical
28 programs.

13

1 Q. What are categorical programs?

2 A. Categorical programs are programs that
3 have to be funded by a special means whether it's
4 proposition like Prop 99 or by legislation. Like
5 Title I comes from the federal government from the
6 IASA law. So there are about 12 -- 12 to 15
7 categorical programs that are part of that
8 application.

9 Q. Do any of those categorical programs for
10 which you serve as co-op director for small schools
11 relate to tobacco control?

12 A. Yes. The Tobacco-Use Prevention
13 Education or TUPE, T-U-P-E, is one of the state
14 categorical programs in the application.

15 Q. Any other tobacco control programs within
16 your -- within the scope of your work as co-op
17 director?

18 A. No.

19 Q. How many -- you mentioned small schools.
20 Are they small school districts?

21 A. Small school districts.

22 Q. How many are they --

23 A. They're called basic aid districts.
24 They're usually one-school school districts.

25 Q. How many such districts do you work with
26 in the Santa Barbara County?

27 A. There are 12 which includes the Santa
28 Barbara County Education Office, Court and Community

14

1 Schools Program.

2 Q. Do you happen to know whether these are
3 all the small school districts within the -- I'm
4 sorry. Strike that. Do you happen to know whether
5 these 12 districts are all of the basic aid districts
6 within Santa Barbara County?

7 A. I believe that there are two that are not
8 in the co-op. One is the Hope School District, and
9 they have a special waiver not to be in the co-op.
10 And the other one is Vista Del Mar. And they do not
11 participate in the programs in the consolidated
12 applications. So they're not part of it.

13 At least that's my understanding of why
14 they're not part of it.

15 Q. What do you mean by consolidated
16 application?

17 A. Consolidated application is how the
18 districts apply for the funding for all those
19 categorical programs.

20 Q. Is there a separate consolidation
21 application with regard to the TUPE program for
22 those --

23 A. No. It's one of the categorical programs
24 within the consolidated application.

25 Q. I see. So all of these categorical
26 programs are covered by one consolidated application
27 for all of the 12 basic aid districts?

28 A. Well, the consolidated application is

15

1 filled out by all school districts in the state that
2 take categorical funding from the state or federal
3 government. But I do a co-op application for these 12
4 districts so that we put them together under the Santa
5 Barbara County Education Office as the lead agency.
6 MR. LERNER: Go off the record a second.
7 (Discussion off the record.)
8 (At this time Mr. L'Orange reentered and
9 Ms. Thro entered the deposition room.)
10 MR. LERNER: Let's go back on the record.
11 Q. So let me summarize and see if I
12 understand. The consolidated application covers
13 several categorical programs; is that correct?
14 A. Correct.
15 Q. And your role is to prepare a form of
16 application that can then be individually tailored for
17 each of the basic aid districts that you work with?
18 A. Not quite. It is a standard form. And
19 so I don't tailor anything, but I pull together all
20 their information with the different programs that
21 they participate in and put it together into a co-op
22 application of the 12 districts.
23 Q. How frequently is a co-op application
24 made with regard to the TUPE program?
25 A. Well, the TUPE program isn't separate.
26 The consolidated application has two parts. The first
27 part is basically nine pages long. And it's due
28 June 1st. And that shows -- the districts indicate

16

1 their intent to take different program funds among
2 other things in the application. But the main purpose
3 of that is to show intent to participate in programs.
4 And TUPE is one of those programs.
5 Then Part 2 -- after the state budget and
6 everything has been passed and we know what all the
7 entitlements are -- is due November 1st. And that
8 includes all the budget information for each of those
9 programs and how the budget is allocated to individual
10 schools within the districts. And TUPE is one of
11 those programs as well.
12 Q. Now, is this an annual process?
13 A. Correct.
14 Q. When did you -- would it be fair to call
15 this job co-op director?
16 A. Yes.
17 Q. When did you first become co-op director?
18 A. August of '96.
19 Q. And has it been a one-hour-a-week
20 position since then?
21 A. Correct. There are other things I do for
22 that job as well.
23 Q. Other things you do as co-op director?
24 A. Uh-huh.
25 Q. What other things do you do?
26 A. I'm in charge of training school district
27 people who are undergoing a PQR which is a program
28 quality review and providing technical assistance to

17

1 the districts that are undergoing that process in a
2 given year.

3 I also attend two co-op director --
4 California Association of Co-Op Directors conferences
5 and disseminate information back to the districts on
6 things that pertain to their programs that we've been
7 told about at the co-op directors meetings.
8 Q. You say you attend two conferences.
9 That's two conferences annually?
10 A. Uh-huh.
11 Q. How much time do you devote to the PQR
12 process?
13 A. Quite a bit actually. Six or seven days
14 in a year.
15 Q. Now, are the co-op director conferences
16 statewide conferences?
17 A. Yes, they are. But they're mainly
18 attended by Northern California districts because
19 that's where the majority of small co-op districts
20 are.
21 Q. Who is the sponsor of the co-op director
22 conferences?
23 A. The California Co-Op Directors
24 Association.
25 Q. Has tobacco control ever been a subject
26 of any of the co-op directors conferences you've
27 attended?
28 A. Yes.

18

1 Q. How many times?
2 A. Not many. Once or twice. When there
3 were changes in the law. I only think once or twice
4 they talked about tobacco.
5 Q. How many co-op directors are there in the
6 state? Do you happen to know?
7 A. No. I'm not sure.
8 Q. How many peop -- how many co-op directors
9 are in attendance typically at the conferences you've
10 gone to?
11 A. There's probably about a hundred people
12 in attendance. But since they're very good,
13 informative conferences, people in large districts
14 attend. And they aren't really co-op directors. But
15 they want the information. So I'm not sure what the
16 breakdown would be, in those hundred people, how many
17 would be co-op directors.
18 Q. Just to return to the subject of tobacco
19 control, do you recall when you heard about tobacco
20 control at one of these conferences?
21 A. No. I'm trying to remember what the
22 subject would have been. If it comes to mind, I'll
23 let you know.
24 Q. Now, has tobacco control ever been the
25 subject of a program quality review that you've been
26 involved with?
27 A. No. Tobacco is not part of the program
28 quality review.

19

1 Q. Okay. Let's see. Let's mark this as
2 160. Handing you --
3 A. Okay.
4 Q. -- Exhibit 160 which is a copy of the
5 document you brought with you today called "1999-2000

6 Application for County Offices of Education, Technical
7 Assistance and Administrative Funds, Safe and
8 Drug-Free Schools and Communities and Tobacco-Use
9 Prevention Education Programs."

10 A. Yes.

11 (Defendants' Exhibit 160 was
12 marked for identification.)

13 Q. You mentioned that your duties with
14 regard to the county -- with regard to the Safe and
15 Drug-Free Schools and Communities and TUPE Programs
16 are listed on this document?

17 A. That's correct.

18 Q. Okay. Where would we find those?

19 A. Page 2-A is the assurances that we signed
20 for Safe and Drug-Free Schools. And page 2-B has the
21 rules and responsibilities for the TUPE Program.

22 Q. How much time do you devote to your role
23 as coordinator for Safe and Drug-Free Schools and
24 Communities?

25 A. My contract for both programs is
26 somewhere -- I usually spend between 28 and 32 hours a
27 week. And about 15 percent of that is for Safe and
28 Drug-Free Schools and 85 percent for TUPE.

20

1 Q. What do you call that position?

2 A. County coordinator -- no. I'm sorry.
3 County Safe and Drug-Free Schools and Tobacco-Use
4 Prevention Education consultant.

5 Q. Is there a shorthand term you use for it?

6 A. We used to be called DATE coordinators,
7 drug, alcohol and tobacco education. But then they
8 put the safe in it. So it's hard to say SDATE
9 coordinator.

10 Q. How about for purposes of today we talk
11 about it as tobacco education consultant?

12 A. That would be fine.

13 Q. Would that be fine? Okay.

14 A. I would appreciate that.

15 MR. L'ORANGE: Shorten that to TEC.

16 MR. LERNER: Okay.

17 Q. How long have you held the position as
18 TUPE education consultant?

19 A. Since November 1989.

20 Q. Has it always been a consultant position
21 as opposed to a staff position?

22 A. Correct.

23 Q. And has the amount of time you've devoted
24 to that position varied over the years?

25 A. Yes. It has.

26 Q. Okay. At the beginning in 1989, how much
27 time did you devote to the position?

28 A. Twenty hours.

21

1 Q. And for how long? Was it a 20-hour
2 position for a period of time thereafter?

3 A. Maybe two years.

4 Q. So say from 1989 to '91?

5 A. Somewhere in there. When the amount of
6 funds that come to us go up and down, then the number
7 of hours that I can contract for go up and down. So I
8 have been as high as 40 hours a week and -- for the 2

9 contracts and as low as 8 hours a week for the -- 8
10 hours a week for 3 years.
11 Q. Okay. During what years were you eight
12 hours a week?
13 A. Let's see. I think it was about '94
14 through '96 or '97.
15 Q. And when was it 40 hours per week?
16 A. I think it was in the third year maybe.
17 I used to -- the first two years I did north county
18 only. And I had a partner who did south county. And
19 when she left then I, for one year, was at 40 hours
20 with both north and south.
21 Q. What was the name of your partner the
22 first two years?
23 A. Oh, boy. Her name's gone out of my mind
24 at the moment.
25 Q. Did your partner also have a 20-hour
26 position?
27 A. Yes.
28 Q. So there were -- apart from yourself and
22

1 this partner, over the last -- over the period of time
2 since November 1989, to your knowledge has anyone else
3 served as tobacco education consultant in Santa
4 Barbara County?
5 A. No.
6 Q. So the 40 hours were devoted to the role
7 for the first 2 or 3 years?
8 A. Uh-huh.
9 Q. And then something happened that -- where
10 the work went down to eight hours per week?
11 A. The work didn't go down.
12 Q. The funding went down?
13 A. The funding went down due to the governor
14 freezing and using Prop 99 funds for other things.
15 Q. All right. And then when did the funding
16 go up such that you began to put in more than eight
17 hours again?
18 A. Actually, I'm sorry. There was another
19 person that worked with me, not as coordinator but
20 worked kind of as a -- an assistant with me during
21 that time for the first -- his name is Allan Moll.
22 He's actually my brother. And he worked about 10 to
23 12 hours a week probably -- let's see.
24 What years would that be? Maybe '91 to
25 '93. Somewhere in there.
26 Q. Was he also a consultant for the
27 Education Office?
28 A. That's correct. About 10 to 15 hours a
23

1 week maybe.
2 Q. He had a separate contract?
3 A. Yes. He did.
4 Q. What was Allan's role as a consultant?
5 A. Probably more of an administrative
6 assistant for me. He attended some trainings. He
7 worked with school districts to get in their
8 applications and final reports, set up meetings,
9 carried my boxes.
10 Q. Does anyone else or does anyone at the
11 Education Office provide you with any assistance in

12 carrying out your role as tobacco education
13 consultant, for example, clerical assistants?
14 A. No. The only -- well, I won't say no.
15 Very limited. Melody Stankowski at the Center for
16 Community Education works for Susan Ham, H-a-m, who I
17 report to. And she does my purchase orders and types
18 up contracts and occasionally keeps lists of
19 participants for workshops that we're offering for
20 those two programs.
21 Q. Who did you report to when you became
22 tobacco education consultant in 1989?
23 A. Susan Ham.
24 Q. And you reported to Susan Ham since then?
25 A. Yes.
26 Q. What is Ms. Ham's position?
27 A. She's the director of the Center for
28 Community Education.

24

1 Q. What is the Center for Community
2 Education?
3 A. It is a -- it's not in the County
4 Education Office. It's in a separate location. And
5 most of the programs that are run out of that are
6 programs that connect in some way to the community
7 like the Homeless Education Project and Confident
8 Parenting Program.
9 THE WITNESS: Is that it?
10 MS. CHASE: Children's Creative Project.
11 THE WITNESS: Yeah. I know there -- there are
12 a lot more programs. She has about 12 or 15 programs
13 that are all community oriented.
14 BY MR. LERNER:
15 Q. Does the Center for Community Education
16 handle any tobacco control programs?
17 A. Only because I'm under there.
18 Q. So your work on the --
19 A. The TUPE Program.
20 Q. -- on the TUPE Program and Safe and
21 Drug-Free Schools is connected in that sense --
22 A. Correct.
23 Q. -- to the Center for Community Education?
24 A. Correct.
25 Q. Do you report to anyone in the Education
26 Office?
27 A. Well, see, I don't really report to
28 anybody I work with since I'm a consultant. But I

25

1 have direct access to Dr. Michael Caston in the
2 position of tobacco education coordinator. And I
3 have -- I report to assistant superintendent -- I'm
4 sorry. He's deputy superintendent for the Santa
5 Barbara County Education Office.
6 And on the other position I report to
7 Carol Johannsen who was the assistant superintendent
8 in charge of curriculum.
9 MS. CHASE: Might want to clarify the
10 relationship between the center and the county. It's
11 just a facility, that they're -- they're not on the
12 same site.
13 THE WITNESS: Right. Susan is -- Susan Ham is
14 an employee of Santa Barbara County Education Office.

15 And the -- it's just a different site than the --
16 BY MR. LERNER:
17 Q. Who does Susan Ham report to?
18 A. Dr. Michael Caston.
19 Q. And who does Dr. Caston report to?
20 A. William J. Cirone, superintendent.
21 Q. Okay. Since November 1989, have you held
22 any positions other than those that you've described
23 so far?
24 A. With the County Education Office or just
25 overall?
26 Q. Overall.
27 A. Yes. I've held other -- other positions.
28 Q. What other positions have you held?

26

1 A. I've held a consultant position with the
2 Region 8 California Healthy Kids Center that was
3 located at the Ventura County Education Office. And I
4 did contract work for them for a program called
5 Healthy Generations Healthy Learners for maybe about
6 two years in the early '90s.
7 I have -- I worked as an employee for the
8 Valley Haven Senior Day Care Center as program
9 director in Solvang for the three to four years that
10 the funding was down to eight hours.
11 Q. Any other positions?
12 A. I have worked as the -- as an employee of
13 the First Presbyterian Church of Lompoc as director of
14 youth ministries part-time from 1996 to December 31st
15 of '99. I have had consultant contracts with two
16 school districts, Cuyama Joint Unified School District
17 and Los Olivos School District, to teach prevention
18 education lessons for Safe and Drug-Free Schools and
19 Tobacco-Use Prevention Education probably the last
20 four years.
21 It's usually about 28 to 32 hours in
22 total for each district.
23 Q. 28 to 32 hours per month?
24 A. Per year.
25 Q. Per year?
26 A. I think that's it.
27 Q. Okay. What years were you the consultant
28 to the Region 8 Healthy Kids Center?

27

1 A. Like I said, it was in the early '90s. I
2 think it was '91 to '93 maybe. They were just small
3 individual contracts.
4 Q. Was there any tobacco control or tobacco
5 prevention education involved in that position?
6 A. Well, the Healthy Generations Healthy
7 Learners is a prenatal substance abuse education
8 program mandated in California for Grade 7 through 12.
9 Q. And is there a tobacco --
10 A. Tobacco.
11 Q. With regard to the tobacco angle, is
12 there a tobacco control part of that program?
13 A. There are tobacco prevention lessons
14 included in that program. And actually, I brought you
15 examples today.
16 Q. Okay. Okay. We'll discuss the programs
17 later on. With regard to the Valley Haven Senior Day

18 Care Center, was there a tobacco prevention or tobacco
19 control element to that position?
20 A. No.
21 Q. Was there any tobacco control or tobacco
22 prevention aspect to your position with First
23 Presbyterian Church?
24 A. No.
25 Q. The years you've been teaching as a
26 consultant in the Cuyama and Los Olivos districts
27 began when? 1997?
28 A. Let's see. It's 2000. '99, '98, '97.

28

1 '96 or '97.
2 Q. What grades were you teaching?
3 A. Most generally on a yearly basis I did
4 Grades 4 through 8. But I have done K-8. Last year I
5 did K-8 in both districts. And I haven't done high
6 school.
7 Q. Okay. We'll return to that in a minute.
8 I just want to learn about your educational background
9 and training and prior positions. Did you hold any --
10 can you describe your employment history prior to
11 November 1989?
12 A. I have a master's degree in gifted and
13 special education. And in 1979 to 1988 I ran a
14 nonprofit organization called the Pegasus Programs,
15 and it was a variety of different programs for gifted
16 and high-ability kids.
17 Q. That was located where?
18 A. Throughout Orange County, California.
19 Q. Where did you obtain your M.A.?
20 A. From Cal State University Los Angeles in
21 1980. And I have a bachelors in social work, 1973,
22 from Cal State University Long Beach.
23 Q. Did you have an emphasis in your social
24 work degree?
25 A. No.
26 Q. What did you do prior to --
27 A. Pegasus?
28 Q. -- Pegasus?

29

1 A. I worked a couple of odd jobs, but mainly
2 I stayed home with my kids after I finished school in
3 '73. I worked at McMahon's Furniture Store in Norwalk
4 for a couple years but didn't -- I had various
5 volunteer positions such as the president of the
6 Orange County Gifted Children's Association prior to
7 '79. And from '79 to '81 I was vice -- parent council
8 chairperson for the California Association for the
9 Gifted.
10 Q. Prior to November 1989, did you have
11 any -- did you receive any training in substance abuse
12 or tobacco control matters?
13 A. No.
14 Q. Okay. What training have you received in
15 tobacco control education?
16 A. Various workshops from the Healthy Kids
17 Program Office at California Department of Ed. When
18 we had the Healthy Kids Center in -- regionally in
19 Ventura, four counties were part of that. They would
20 bring in trainers. So throughout the ten years

21 there's been many different workshops and --
22 Q. So the training you've received has come
23 through the Healthy Kids Program?
24 A. Right. California Department of Ed. and
25 the Healthy Kids Regional Center.
26 Q. Have you had training through any other
27 sources?
28 A. I'm sure I have gone to workshops that

30

1 have been put on by the Public Health Department.
2 Q. And what have you done to keep yourself
3 informed regarding tobacco control education rather
4 than attending training sessions or workshops?
5 A. We're constantly sent information on
6 e-mail on various research on new programs. I review
7 resource catalogs and curriculums that are sent to me.
8 I review things that are new and in our Healthy Kids
9 Resource Center. I attend conferences and hear
10 presentations and see exhibits.
11 I work with both the Public Health
12 Department, their community coalition called CEASE,
13 C-E-A-S-E, and -- so that's the tobacco side. And I
14 work with the Department of Drug and Alcohol under the
15 Department of Mental Health here for Safe and
16 Drug-Free Schools. So we tend to go to each other's
17 trainings.
18 Q. Okay. Now, in the course of your -- the
19 training you've received through the workshops and
20 these other sources you mentioned, have you gained an
21 awareness with respect to health issues related to
22 environmental tobacco smoke?
23 A. Yes.
24 Q. Okay. And how did you come by -- what is
25 your awareness in that respect?
26 A. I'm aware that it is a carcinogen and
27 that children who reside with smokers tend to have
28 more sick days in school. And it's usually a minor

31

1 portion of the curriculums. That's not our main
2 focus.
3 Q. Okay. When did you become aware that
4 ETS -- I'll refer to environmental tobacco smoke --
5 A. That's fine.
6 Q. -- secondhand smoke as ETS. When did you
7 become aware that ETS was a carcinogen?
8 A. I believe in the early '90s there were
9 some issues or trainings or projects that the Public
10 Health Department was working on that it would have
11 come up in our coalition meetings. And other than
12 that, it would be strictly in using the curriculums
13 that -- the different curriculums that have it as a
14 lesson or two.
15 Q. And by coalition, are you referring to
16 CEASE meetings?
17 A. Correct.
18 Q. Now, how did you become aware that
19 children who live with smokers have more sick days
20 than children who do not?
21 A. Just in different research studies and
22 different documents that have been part of my job.
23 Q. When did you become aware --

24 A. I really don't know.
25 Q. Okay. Now, is there an ETS component to
26 the curriculum you've worked with?
27 A. Some of them. There are one or two
28 lessons or at least some resource information. Some,
32
1 there are not.
2 Q. Do your positions involve any contact
3 with the Tobacco Control Section of the State
4 Department of Health?
5 A. My position as county coordinator does
6 not. But the state people that I mentioned earlier
7 work with TEROC which is the Tobacco Education
8 Oversight Committee. And since under Proposition 99
9 CDE is not the lead agency, nor is the Santa Barbara
10 County -- Santa Barbara County Education Office the
11 lead agency within the county, we are directly linked
12 with them.
13 The Public Health Department is the local
14 lead agency for these funds.
15 Q. Okay. In what respect are you linked
16 with the Santa Barbara County Public Health Department
17 in tobacco education efforts?
18 A. They're the local lead agency under Prop
19 99.
20 Q. And does that mean that you receive
21 educational goals from them?
22 A. No. Our programs are separate. We
23 are -- the program itself is administered through the
24 California Department of Education. I have a graph
25 that might help you. That's a document called
26 "Getting Results Part II" that has just been released
27 in February.
28 MR. L'ORANGE: You want a copy?

33

1 MR. LERNER: Go off the record a minute.
2 (Discussion off the record.)
3 BY MR. LERNER:
4 Q. We've marked as Exhibit 161 a -- I guess
5 we'll call it a handbook called "Getting Results
6 Part II, California Action Guide to Tobacco Use
7 Prevention Education" put out by the California
8 Department of Education which was just handed to me by
9 Ms. -- Mrs. Waldau.
10 And referring to page -- the Figure 1 on
11 page 3 of this handbook, you've referred to a chart
12 called "California's Tobacco Control Program." And
13 this chart depicts how you understand the county
14 offices of education relate to the work of the Tobacco
15 Control Section?
16 A. Yes.
17 (Defendants' Exhibit 161 was
18 marked for identification.)
19 Q. Okay. Thanks. Now, Mrs. Waldau, you've
20 noted or you highlighted for us some language at the
21 bottom of page 2 running over to page 3 that
22 identifies priority areas for projects funded by DHS.
23 And the first item says: "Eliminating exposure to
24 secondhand tobacco smoke."
25 At some point did you become aware that
26 eliminating exposure to secondhand tobacco smoke was a

27 priority for DHS funding?
28 A. Not until actually I read it in there.

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1 Q. All right. Were you aware that
2 eliminating exposure to secondhand tobacco smoke was a
3 priority for DHS in general?
4 A. Yes.
5 Q. Okay. When did you become aware of that?
6 A. When I became involved with the CEASE
7 group probably about '95 or '6.
8 MR. LERNER: Okay. We can take a quick
9 break -- a short break right now.
10 (Recess.)
11 MR. LERNER: Back on.
12 Q. You mentioned that you're a member of
13 CEASE. What does CEASE stand for? CEASE stands for
14 Coalition Engaged in a Smokefree Environment; is that
15 right?
16 A. Thank you.
17 Q. And how long have you been a member of
18 CEASE?
19 A. Probably a regular participant in the
20 last three years and an occasional participant prior
21 to that. When funding was low, it was one of the
22 things I didn't -- couldn't bother to get to.
23 Q. And you participated in CEASE in
24 connection with your role as a consultant to the
25 Education Office?
26 A. Right.
27 Q. Do you participate or are you a member of
28 any other community organizations or committees that

35

1 pertain to tobacco control?
2 A. I attend the Lompoc Unified School
3 District Drug and Tobacco Advisory Committee. And
4 occasionally I attend the Orcutt School District
5 Committee -- Advisory Committee.
6 Q. Drug and Tobacco Advisory Committee?
7 A. Yes.
8 Q. And those are districts found in Santa
9 Barbara County?
10 A. Correct. And right now that's -- those
11 are the only other organizations that I regularly go
12 to.
13 Q. Are you aware whether how many school
14 districts there are in Santa Barbara County?
15 MS. CHASE: Twenty-two.
16 MR. LERNER: Twenty-two?
17 Q. Are you aware whether other districts
18 also have drug and tobacco advisory committees?
19 A. They all are required to have an advisory
20 body. Many of the districts use their school site
21 council as their advisory committee.
22 Q. What is a school site council?
23 A. School site council is made up of
24 administrators, teachers and parents. And they
25 oversee the school budget and other legal -- they have
26 a prescribed set of -- of duties which they can
27 subsume other advisory committee functions if the
28 committee so elects to do so.

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1 Q. How long have you participated on the
2 Lompoc Drug and Tobacco Advisory Committee?
3 A. On and off over ten years.
4 Q. And how long with regard to the Orcutt
5 School District?
6 A. On and off over ten years.
7 Q. And have you done that in your capacity
8 as a parent in Lompoc?
9 A. No.
10 Q. Strictly on a professional basis?
11 A. Correct.
12 Q. All right. And has ETS been the subject
13 of discussion over the last ten years in the Lompoc
14 Drug and Tobacco Advisory Committee?
15 A. No.
16 Q. How about with regard to the Orcutt
17 School District?
18 A. Not that I recall.
19 MR. LERNER: Okay. Karen, I'm going to have
20 this marked.
21 Q. I'd like to show you what has been marked
22 Exhibit 162. It's entitled "CEASE Member List." And
23 I believe this document shows the date at the bottom
24 of 4/16/98. Are you familiar with the CEASE
25 membership?
26 A. I'm familiar with the regulars that come
27 to meetings which is a very small number of people on
28 this list.

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1 (Defendants' Exhibit 162 was
2 marked for identification.)
3 (At this time Ms. Thro
4 exited the deposition room.)
5 MR. LERNER: Okay.
6 Q. And are you among the regulars?
7 A. I would say yes. For the last couple of
8 years I've been a regular.
9 Q. And who else would you put in the
10 category of regular attendees at CEASE meetings?
11 A. Sharon Bifano.
12 Q. And does she have a position that you --
13 A. I think she's president of CEASE. Jayne
14 Brechwald, the director of Health Care Services. Some
15 of these people and positions don't exist anymore.
16 Q. Is Dawn Dunn someone who regularly
17 attends?
18 A. Yes. Mary Nolan from the American Lung
19 Association regularly attends. Chris Sosnay from
20 Santa Maria occasionally attends.
21 (At this time Ms. Thro
22 reentered the deposition room.)
23 BY MR. LERNER:
24 Q. Does Chris Sosnay have a position you're
25 aware of?
26 A. She's an Outreach consultant for Santa
27 Maria Union High School District. Janet Benner and
28 Cynthia Maez from the Tri-County Regional Team attend.

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1 And a lot of the names are just out of date.
2 Q. Okay. So do you recognize this as a list

3 of members from 1998?
4 A. If they say it is, it is. I mean I --
5 Q. Okay.
6 A. I don't know who -- who they keep on
7 their mailing list.
8 Q. I notice the name of Kathleen Modugno,
9 15th District PTA member, on the list.
10 A. I don't know her.
11 Q. Do you happen to know whether there's a
12 PTA member who regularly attends these meetings?
13 A. I don't -- I'm not sure.
14 Q. As part of your role as the tobacco
15 education consultant, do you work with any advisory
16 committees or otherwise with people from the various
17 school districts?
18 A. Yes. We have a -- we call it the SDFSC,
19 Safe and Drug-Free Schools/TUPE County Advisory
20 Committee.
21 Q. And was that previously known as a DATE
22 Committee?
23 A. Yes. DATE Advisory Committee, County
24 DATE Advisory Committee.
25 Q. When did it become known as the SDFSC
26 Committee?
27 THE WITNESS: When did Safe Drug come in? Four
28 years? I believe when IASA law added Drug Safe to

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1 schools.
2 BY MR. LERNER:
3 Q. But the committee itself has been in
4 continuous operation for a number of years before
5 that?
6 A. Since 1989 on a quarterly basis.
7 Q. By quarterly basis, you mean there are
8 quarterly meetings?
9 A. Correct.
10 Q. What's your role -- what has been your
11 role since 1989 on the committee?
12 A. Basically I plan and run the meetings.
13 Q. Are you the chairperson?
14 A. No. William J. Cirone is the
15 chairperson.
16 Q. And who are the members of the committee,
17 I mean generally speaking, in terms of the position?
18 A. Generally speaking it would be the Public
19 Health tobacco people, the Tri-County's Regional Team
20 people, several school districts. Occasionally the
21 Friday Nite Live coordinators of the county might
22 come.
23 Q. What are Friday Nite Live coordinators?
24 A. They counsel for alcoholism and drug
25 abuse. It's a community based organization. And one
26 of their programs is Friday Nite Live which is a -- a
27 club type of drug -- drug, alcohol, tobacco free type
28 of program on high school campuses. And let's see.

40

1 Who else usually comes?
2 The assistant superintendent working with
3 my programs from the county office is usually there.
4 And there's usually Susan Ham.
5 (Brief interruption.)

6 (At this time Ms. Thro
7 exited the deposition room.)
8 BY MR. LERNER:
9 Q. Assistant superintendent is Dr. Caston?
10 A. Well, he's brand new. So he's never been
11 to a meeting before. But that position -- whoever's
12 in that position over the past ten years has attended
13 the meetings.
14 Q. What was the name of the previous
15 superintendent?
16 A. Carol Johannsen.
17 Q. And generally speaking, what is the
18 purpose of the committee meetings?
19 A. Purpose of the committee meetings is that
20 we -- I provide information that I've received about
21 the Safe and Drug-Free Schools and TUPE programs. We
22 have school districts share with each other about the
23 practices and programs that are working well or
24 concerns or barrier -- barriers to program limitation.
25 We usually have someone come and
26 present -- like it could be the American Lung
27 Association coming and presenting their Great American
28 Smokeout materials. We could have -- it's mainly

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1 information and sharing. And then we talk about
2 the -- the new things that we're supposed to
3 implement.
4 For example, over the last year and a
5 half, it's been the Principles of Effectiveness and
6 how that fits into their programs.
7 Q. Are all the school districts represented
8 on the committee?
9 A. No. Not all of them come. It's open to
10 everyone. It's an open committee.
11 THE WITNESS: I'm a cat lover. So that's okay.
12 MR. L'ORANGE: Off the record.
13 (Discussion off the record.)
14 BY MR. LERNER:
15 Q. Are private schools represented on the
16 committee?
17 A. No.
18 Q. Do you work with private schools?
19 A. No, I don't.
20 Q. Do you know who has the responsibility
21 for working in private schools on tobacco control
22 issues within Santa Barbara County?
23 A. No one on the education side of it
24 because we are not allowed to fund -- do any funding
25 of our state funds for private schools. Whereas Safe
26 and Drug-Free Schools being a federal program, they
27 must see if private schools in our districts want to
28 participate.

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1 So if anybody would be working with them,
2 it would be the other agencies like Tri-County's
3 Regional Team or the Health Department. But I have no
4 knowledge of whether they do or not.
5 Q. And has ETS to your recollection ever
6 been a subject of or a subject addressed at any
7 meetings of the committee?
8 A. Of our committee?

9 Q. Yes.
10 A. Of the County Education Committee? No.
11 The closest thing to that might be some pamphlets from
12 American Cancer Society or American Lung Association,
13 something like that that I would put out as resources
14 for people to pick up. I do have some samples of
15 those with me.
16 Q. Was smoke-free schools a subject of --
17 ever a subject discussed at these meetings?
18 A. Yes. Because we had to -- all districts
19 were asked to institute tobacco-free campus policies,
20 all districts participating in the program.
21 Q. Do you know the name Wendy Shelton?
22 A. Uh-huh.
23 Q. Who is Wendy Shelton?
24 A. Our public information officer.
25 MS. CHASE: Right.
26 THE WITNESS: I'm sorry. Did you hear that?
27 Public information officer.
28 ///

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1 BY MR. LERNER:
2 Q. Have you ever had occasion to work with
3 Wendy Shelton in connection with any public
4 information efforts related to tobacco control?
5 A. I don't usually work with her. She
6 reviews brochures on workshops and stuff that I plan
7 to send out.
8 Q. Okay. Just mark this. I'm going to show
9 you a document from the original box of materials you
10 presented to us which is called "Santa Barbara County
11 Tobacco Prevention Program Involvement Opportunities,
12 '96-'98."
13 A. Okay.
14 (Defendants' Exhibit 163 was
15 marked for identification.)
16 Q. Do you recall that document?
17 A. Yeah. It's from the Public Health
18 Department.
19 Q. Okay. And do you recall receiving that
20 in connection with a CEASE meeting?
21 A. Yes.
22 Q. Okay. And approximately when did you
23 receive that document?
24 A. I don't know.
25 Q. Okay. Would it make sense that it was
26 approximately 1996?
27 A. I guess it would be since that's what the
28 dates up there are.

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1 Q. Okay. I'm going to mark another one for
2 you. Now, after you've had a chance to review it, can
3 you identify Exhibit 164.
4 A. It would be something I would send out to
5 the people on our advisory committee.
6 (Defendants' Exhibit 164 was
7 marked for identification.)
8 Q. So that's a letter dated September 23,
9 1996 that you sent to your advisory committee?
10 A. I would send it to people on my mailing
11 list that would be the advisory committee in my school

12 districts that I work with and people like Dawn Dunn
13 and TCRT --

14 Q. Okay.

15 A. -- people I generally work with.

16 Q. Okay. Direct your attention to the
17 paragraph Number 4 at the bottom of the second page
18 and ask you to review that, please.

19 A. Okay.

20 Q. That paragraph refers to the state goal
21 of reducing exposure to secondhand smoke; correct?

22 A. Uh-huh.

23 Q. And do you recall whether that was a
24 subject of discussion with your committee at all prior
25 to September 23rd, 1996?

26 A. It wasn't a topic of discussion with my
27 committee. It was just an information opportunity
28 that I put in my -- my little update to the mailing

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1 list.

2 Q. All right. And the paragraph refers to
3 the potential to provide proposals for grants with
4 regard to the -- or from the Department of --
5 California Department of Health Services with regard
6 to these goals including the goal of reducing exposure
7 to secondhand smoke.

8 Do you recall whether any grants were --

9 A. Nobody --

10 Q. -- grant applications were made?

11 A. Nobody from the school side would have
12 applied for that.

13 Q. Do you recall if anyone from any side
14 applied for one?

15 A. I wouldn't know of -- I wouldn't have any
16 way of knowing from any other side.

17 Q. Okay. Mark this as --

18 MR. LERNER: Off the record.

19 (Discussion off the record.)

20 MR. LERNER: Okay.

21 Q. I'd like to show you Exhibit 165 which
22 is -- appears to be a press release dated
23 September 26, 1997 from the desk of Bill Cirone.

24 A. Cirone.

25 (Defendants' Exhibit 165 was
26 marked for identification.)

27 Q. Cirone.

28 A. Okay.

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1 Q. Do you recognize that document as a press
2 release that was put out by the Education Office
3 relating to secondhand smoke?

4 A. Looks like the kinds of things that they
5 pass on to me after they do them.

6 Q. Do you personally recognize it as a
7 statement that was put out?

8 A. Basically I receive these as information
9 items and stick them in a file.

10 Q. Okay.

11 A. Does them -- what? -- weekly or every
12 other week, something like that.

13 Q. Does Dr. Cirone have a practice of
14 issuing a weekly press release, information statement?

15 A. He has several different avenues of --
16 of -- he has a radio show. And he appears on local
17 T.V. And he does those press releases from time to
18 time.
19 Q. I'll show you another document called "AM
20 990 Commentary - Children and Secondhand Smoke" by
21 William Cirone dated March 17, 1998 taping. Ask you
22 if you can identify that document.
23 A. No. I don't see things like that.
24 (Defendants' Exhibit 166 was
25 marked for identification.)
26 Q. Okay. Is this a document that you
27 received from Dr. -- or from Ms. Shelton?
28 A. Yes. She's the person who passes these

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1 things on.
2 Q. You also received --
3 MS. CHASE: Does she distribute these though?
4 Do you get these?
5 THE WITNESS: Sometimes. Depending on what the
6 topic's about -- actually, excuse me. She sends them
7 to Susan Ham, and Susan passes them on to me.
8 BY MR. LERNER:
9 Q. And you also received a copy of
10 Exhibit 165 which was the press release of September
11 26, 1997?
12 A. Correct. Yeah.
13 Q. And that's because both of these dealt
14 with tobacco related issues?
15 A. Correct.
16 Q. Okay. And did you review the documents
17 at the time you received them?
18 A. I have no recollection.
19 Q. Okay. Okay. Returning, then, to
20 Exhibit 161 which is the California Action Guide to
21 Tobacco-Use Prevention Education, this is a document
22 that you produced this morning and, as you've told us,
23 marked it with regard to references to education
24 pertaining to environmental tobacco smoke.
25 A. Things that I thought might be helpful to
26 what I thought the intent --
27 Q. Okay. And how do you use this document
28 that is the California Action Guide in your -- in your

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1 work as a tobacco education consultant?
2 A. That is supposed to be the -- that is a
3 second -- obviously it's called "Getting Results
4 Part II." Getting Results Part I was directed
5 specifically for Safe and Drug-Free Schools and the
6 research behind programs that are proving to be
7 effective.
8 So they are guides that California
9 Department of Ed. are disseminating to all the school
10 districts so that they can use practices that would
11 meet our goals which would be to forestall use of
12 drugs, alcohol and tobacco or to reduce use by people
13 who are using.
14 Now, this is the companion document,
15 Getting Results Part II, that addresses the research
16 and the program components of the Tobacco-Use
17 Prevention Education Program.

18 Q. Is Getting Results Part I also a document
19 that you recently received?
20 A. Getting Results Part I, I believe, came
21 out in 1998.
22 Q. And Getting Results Part II just recently
23 came out?
24 A. Came out in February of 2000.
25 Q. Okay. And have you used this as a guide
26 to any of your activities as tobacco education
27 consultant?
28 A. I have participated in two trainings on

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1 this guide. One was on February 29th at the Santa
2 Maria-Bonita Souza Support Center. And the second was
3 a training on March 15th at the Center for Community
4 Education in Santa Barbara. And I have distributed
5 the document to all of the districts that were in
6 attendance as well as those that were not in
7 attendance.

8 I mailed out documents to those that were
9 not in attendance.

10 Q. It's all the districts in Santa Barbara
11 County?

12 A. Correct.

13 Q. Now, who sponsored the training at Santa
14 Maria-Bonita?

15 A. The California Department of Education
16 sponsored it as a regional training.

17 Q. And who was -- who were the trainers?

18 A. Barbara Detrick. And the other woman's
19 name was hyphenated or a two-thing last name that I
20 can't remember.

21 Q. Were the trainers from the Department of
22 Education?

23 A. They were given a consultant contract to
24 do these implementation workshops through the
25 California Department of Ed.

26 Q. And who attended the training to your
27 knowledge?

28 A. There were people from Kern County, San

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1 Luis Obispo County, Santa Barbara County and Ventura
2 County at the training. There were people from
3 Tobacco Control Sections of the Public Health
4 Departments. There were school district
5 administrators that are in charge of these programs.
6 There were some classroom teachers, some Outreach
7 consultants.

8 Q. Approximately how many people were at
9 this training --

10 A. At the Santa Maria training?

11 Q. Correct.

12 A. 35, 40. Something like that.

13 Q. And these are people that -- if I can
14 summarize, they're generally responsible for tobacco
15 control education or promotion efforts?

16 A. Correct.

17 Q. Was ETS a subject covered at that
18 training?

19 A. No.

20 Q. Was there materials related to ETS that

21 were distributed at the training?
22 A. The only materials that were distributed
23 was the Getting Results Part II, and there are some
24 sections of it that -- especially under the CDC
25 guidelines that relate to ETS. But as a specific
26 topic, no.
27 Q. Okay. And you said you also attended a
28 training on March 15 at the Center for Community

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1 Education?
2 A. Right. There were six school districts
3 present, and I did the training.
4 Q. And that was a training with regard to
5 Getting Results Part II?
6 A. Correct.
7 Q. Which school districts attended?
8 A. Actually, it may have been only four of
9 us sitting there. The consultant for Hope School and
10 Santa Barbara City Schools. He consults with both
11 districts.
12 Q. What's his name?
13 A. John Boettner, B-o-e-t-t-n-e-r. Tracy
14 Steel from Santa Ynez High School. Lou Pannizon from
15 Carpinteria School District. And the new woman, Maria
16 something, a health teacher from Buellton School
17 District.
18 Q. And as part of this, was ETS the subject
19 of discussion or -- at the March 15 training?
20 A. No.
21 Q. Okay. What was the discussion at the
22 March 15 training?
23 A. We did activities to go through the new
24 guide and to review the new Getting Results Part II.
25 Q. Okay. So to the extent that ETS is
26 covered in the book, it was part of the --
27 A. Right. It just was not --
28 Q. -- training?

52

1 A. -- a specific topic.
2 Q. Okay. If I could just digress for a
3 moment and get some information from you concerning
4 the school age population that you've been working
5 with in the county. What's the student population
6 that you've been working with approximately --
7 A. You mean under those other consultant
8 contracts?
9 Q. With the -- let's break it down in a way
10 that works best. How about with regard to your work
11 as tobacco education consultant?
12 A. I don't quite know how to answer that
13 because I work with school administrators that are in
14 charge of the program. I don't work directly with
15 children.
16 Q. Okay. But you work with school
17 administrators in that program from all the districts
18 in the county?
19 A. Correct.
20 Q. And how many school children in all the
21 districts in the county at present approximately?
22 THE WITNESS: It used to be 56. It's probably
23 58 to 60 at this point or used to be. Let's see. We

24 should carry one of those little --
25 MS. CHASE: Want me to add up?
26 THE WITNESS: Here we go.
27 BY MR. LERNER:
28 Q. So you handed me a booklet called "Santa

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1 Barbara County Education Office Directory 1999-2000"
2 which on the inside cover shows a total enrollment of
3 64,500 and 12 -- K through 12 in Santa Barbara County
4 schools?
5 A. Sounds correct.
6 Q. Sound about correct to you? And
7 approximately what's the school age population of the
8 districts that you work with with regard to the co-op
9 director position?
10 A. I can tell you in a minute.
11 THE WITNESS: Can I give those to you to add up
12 for me?
13 MS. THRO: Thanks. 4,887.
14 THE WITNESS: Plus another what? 600, 400?
15 MS. CHASE: 400.
16 THE WITNESS: For Court and Community Schools.
17 BY MR. LERNER:
18 Q. So approximately 5,200 pupils?
19 A. (Witness nods head.)
20 Q. Now, with regard to the tobacco education
21 consulting position where you work with all districts,
22 has the school age population fluctuated since you've
23 taken the position in 1989?
24 A. It's gone up. Like I say, it was like
25 55-, 56,000.
26 Q. And it's increased to about 64-, 65,000
27 presently?
28 A. Correct.

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1 Q. And has there been tobacco prevention or
2 tobacco control education programs in all the school
3 districts that you've worked with since 1989 that have
4 been presented to pupils?
5 A. It's been available to all districts.
6 Not all districts choose to participate in it.
7 Q. Okay. When you say that not all
8 districts choose to participate, what do you mean?
9 A. I mean that they do not choose to take
10 Tobacco-Use Prevention Education funds as a
11 categorical program because they are usually very
12 small. And the amount of funds does not equal the
13 amount of work that is required by the program.
14 Q. Okay. You're saying that Tobacco-Use
15 Prevention Education has not been offered in all
16 schools?
17 A. Correct. Districts have chosen not to
18 participate in those programs.
19 Q. Okay. And now, in the past, can you tell
20 me what districts have chosen not to participate and
21 how many pupils that may have affected?
22 A. I can tell you currently which ones are
23 not participating. I can't remember different ones as
24 they've come in and out of the program. Let's see.
25 Currently it's Ballard School District who would
26 receive \$354.

27 Q. How many pupils in that district?
28 A. I have to look that up.

55

1 MS. CHASE: You want me to look at those
2 things?
3 THE WITNESS: Yeah.
4 BY MR. LERNER:
5 Q. If you can just tell me the districts and
6 the number of pupils affected.
7 A. That's what I'm trying to do.
8 Q. Great.
9 A. I don't have the numbers off of my head.
10 MS. CHASE: Ballard's enrollment is 137.
11 THE WITNESS: Casmalia?
12 MS. CHASE: Casmalia's enrollment is 26.
13 THE WITNESS: College?
14 MS. CHASE: College, 670.
15 THE WITNESS: Los Alamos?
16 MS. CHASE: Los Alamos, 238.
17 THE WITNESS: Vista Del Mar?
18 MS. CHASE: And Vista Del Mar is 140.
19 THE WITNESS: And the Juvenile Court and
20 Community Schools?
21 MS. CHASE: Doesn't list their population.
22 THE WITNESS: Now, those are -- those are total
23 population numbers. And the Tobacco-Use Prevention
24 Education Program can only serve Grades 4 through 8
25 since about -- I guess it was around '96 or '7.
26 Before then, they were K-12 program.
27 MR. LERNER: Okay.
28 Q. So currently there's --

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1 A. And then under the Juvenile Court, they
2 don't have younger than seventh grade. So the amount
3 of seventh graders sent and eighth graders that they
4 would have is very low. So it maybe would be a
5 hundred and some pupils.
6 Q. So the number of -- we're looking here at
7 a total of a little over a thousand students, only a
8 fraction of whom --
9 A. Right.
10 Q. -- would be receiving education --
11 tobacco education through TUPE -- the TUPE Program?
12 A. Right. And so therefore are not
13 currently receiving.
14 Q. Okay. Now, did the students in the
15 districts we just mentioned receive any tobacco
16 education to your knowledge, tobacco control
17 education?
18 A. I really don't have any direct knowledge.
19 Most districts have a health component.
20 Q. All right. Do those districts receive
21 any assistance from you in your co-op director
22 position?
23 A. Not as far as tobacco because they don't
24 participate in tobacco.
25 Q. And the reason they don't participate is
26 that the funding is too small to justify the work of
27 doing the application?
28 A. Right. Of implementing the program.

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1 There's many requirements. There are also competitive
2 grants at the high school level, Grades 9 through 12.
3 Q. And who takes advantage of those
4 competitive grants to your knowledge?
5 A. Carpinteria High School. Carpinteria
6 School District has had a grant for three or four
7 years. And Santa Ynez High School just applied for
8 one, and I have not heard yet whether they received
9 it.
10 Q. And who provides such grants?
11 A. The California Department of Education,
12 Healthy Kids Program Office. It's Prop 99 funds.
13 Q. Are you aware of any other school
14 districts or high schools that have obtained or
15 applied for these high school competitive grants?
16 A. Not in our county.
17 Q. Now, how is -- how is your -- do you have
18 knowledge as to how your position is funded?
19 A. My position is funded through Prop 99 and
20 through the Safe and Drug-Free Schools Programs,
21 through the California Department of Education, the
22 administrative funds with which you have our
23 application as an exhibit.
24 Q. Okay. Okay. Do you receive an annual
25 budget?
26 A. I prepare an annual budget.
27 Q. And is that approved by --
28 A. California Department of Education.

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1 Q. Okay. And has it been a unified budget
2 for Safe and Drug-Free Schools and TUPE for a period
3 of years?
4 A. No. It's not a unified budget. As you
5 can see on the budget pages, both programs are
6 strictly kept separate in terms of fiscal.
7 Q. Can you give me an estimate as to what
8 your budget presently is for Safe and Drug-Free
9 Schools and Communities?
10 A. Yes, I can.
11 Q. Okay. You've handed me a copy of -- copy
12 of Exhibit 160 but with various numbers filled in for
13 various budget items?
14 A. Correct.
15 Q. And this shows an SDFSC budget total cost
16 of programs as \$19,587; correct?
17 A. Uh-huh, correct.
18 Q. And then the budget for the TUPE budget
19 for 1999-2000 shows a total cost of programs of
20 \$85,938; is that correct?
21 A. Correct.
22 Q. Now, do you administer the funds that are
23 within these two budgets?
24 A. Correct.
25 Q. Are there any other funds or grants that
26 you administer other than the ones shown on this page?
27 A. No.
28 Q. Do you have copies of these completed

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1 budget forms for prior years?
2 A. I have one with me in '97, '98. That's

3 it.
4 Q. And can you give me the numbers that were
5 in your budget for -- for 1997, '98 for the SDFSC
6 Program?
7 A. Actually, what I have with me is the one
8 that was before both were in the same application. I
9 just have the one with -- for TUPE with me.
10 Q. Okay. Do you have that number for 1997,
11 '98?
12 A. Yeah, I do. Total with carry-over from
13 the prior year would have been 72,432.
14 Q. Do you have a recollection of what the
15 budget was that year for SDFSC?
16 A. We probably received something like
17 \$10,000. Plus there might have been some carry-over.
18 Q. Carry-over refers to the portion of the
19 budget from approval --
20 A. Prior year.
21 Q. The prior years that has not been
22 expended?
23 A. That's correct.
24 Q. Does the 1999-2000 budget include any
25 carry-over?
26 A. Yes. It does.
27 Q. Are you able to determine how much from
28 this document?

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1 A. The \$33,392.
2 Q. For which program?
3 A. TUPE.
4 Q. And is there a reason that the carry-over
5 amounts to that -- has gotten to that level?
6 A. Basically on purpose because the funding
7 source has not been secure, and we've only had full
8 county administrative funding for a couple of years.
9 And so that would be part of it. We chose not to hire
10 any additional consultants that would use that up on a
11 yearly basis.
12 Because basically since it's a
13 categorical funded program, until there is an actual
14 entitlement letter, we have to use carry-over funds
15 for me to be able to do this position from July 1
16 because we simply don't get those numbers until about
17 the end of September or something in October.
18 So if we would spend all of the funds,
19 then the position would be vacant until those
20 entitlement letters came out.
21 Q. In other words, you do it for two
22 reasons: One to create something of a contingencies
23 fund?
24 A. Right.
25 Q. And second, to make sure you have money
26 in the budget for the beginning of the fiscal year?
27 A. Right. And there have been funded
28 programs or funded consultants for training that

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1 haven't worked out. And so we've just carried them
2 over and used them for different trainings the next
3 year.
4 Q. What do you mean have not worked out?
5 A. Either with their being available at the

6 time of the year when our school people wanted to have
7 a training or mainly calendar.
8 Q. Calendar related?
9 A. Yeah.
10 Q. Now, I realize you don't have the
11 documents present. But can you give me an estimate of
12 the range of your -- the budgets that you've
13 administered --
14 A. Yes.
15 Q. -- since 1989?
16 A. Yes. The current budget is the highest I
17 would say which is at -- I'd like to speak to the --
18 the actual current year amount which is 52,546 because
19 I don't remember the different carry-overs for
20 different years. It's been as low as 16,000. And in
21 the beginning years, maybe it was in the 40s and then
22 went -- began being reduced each year. And I think
23 the lowest we got was 16,000.
24 Q. And when was that low, low point?
25 A. In those -- probably somewhere between
26 '93 and '96 when the governor held onto the money and
27 stuff.
28 Q. Okay. Now, do you receive -- strike

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1 that. Are you aware of the availability -- your
2 potential availability of any funds for your programs
3 under Proposition 10?
4 A. No. They are not because they're funding
5 programs from zero to five.
6 Q. Have you heard the name American Legacy
7 Foundation?
8 A. No.
9 Q. Are you aware of any funds that you might
10 be eligible to obtain under the master settlement
11 agreement between the states and the tobacco
12 companies?
13 A. Not for the school districts. Not really.
14 Q. Have you heard of any funding that might
15 be available?
16 A. I believe that they've discussed that
17 funding at the CEASE meetings.
18 Q. What have you heard about that funding at
19 the CEASE meetings?
20 A. That they're working with the supervisors
21 and wanted the funding to be health related and that
22 they had a concern over the portion of the funding --
23 the percentage of the funding that would go into some
24 kind of trust or annuity or something like that.
25 MR. LERNER: Let's go off the record.
26 (At the hour of 12:05 p.m. a luncheon recess
27 was taken. The deposition was resumed at 1:20 p.m.,
28 the same persons being present except Ms. Chase.)

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1 SANTA BARBARA, CALIFORNIA, TUESDAY, APRIL 4, 2000
2 1:20 P.M.
3

4 EXAMINATION (CONTINUED)
5

6 BY MR. LERNER:

7 Q. When we were speaking before lunch, we
8 were discussing the range of your budgets from 1989

9 forward. And you gave me information concerning your
10 TUPE budget.
11 A. Uh-huh.
12 Q. Can you tell me what the range of your
13 budgets have been with regard to the SDFSC -- SFC
14 Program?
15 A. Drug-Free Schools has always been a small
16 allocation. It's -- they do it on a yearly basis. So
17 it's not something that we even expected. We never
18 know that it's going to continue.
19 Q. What year did you first get a Drug-Free
20 Schools budget?
21 A. I don't know if -- we've always had a
22 couple of thousand dollars. There was another program
23 that was involved in the beginning days that pulled
24 out. And that was CAD -- CADPE from the Office of
25 Criminal Justice Planning. So there used to be three
26 sources of funding.
27 And it's always been very small which has
28 been -- I'm sorry.

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1 Q. Well, you said it was approximately
2 \$10,000 for the current year for '97, '98.
3 A. Right.
4 Q. And 19,587 for 1999, 2000.
5 A. Well, that's including the carry-over.
6 Q. Okay.
7 A. See, that's not really the allocation.
8 Q. What's the carry-over for '99, 2000?
9 A. The allocation itself is 12,992.
10 Q. And the lowest it's been -- the lowest
11 the annual allocation has been has been approximately
12 what for Drug-Free Schools?
13 A. Probably \$2000.
14 Q. Okay. And how much money did -- were you
15 receiving from the Office of Criminal Justice
16 Planning?
17 A. I don't remember. They were only in for
18 about two or three years. It was -- it was a
19 significant amount of money. It seems to me in my
20 recollection that the funding levels were greater than
21 the tobacco money for the schools. For the -- it was
22 an entitlement program. And it was a K-12 program.
23 Q. And do you recall what years you got
24 money from that program?
25 A. '89, '90 and '91 probably.
26 Q. What was that money used for?
27 A. Drug and alcohol prevention education.
28 Q. And tobacco too?

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1 A. That's considered under drug and alcohol.
2 Q. So when you say greater than the amount
3 of money that you got from --
4 A. It was a significant funding source for
5 the schools in general. I don't remember what -- what
6 our county administrative portion on that was.
7 Q. All right.
8 A. But just for the -- the schools districts
9 themselves, it was a significant pot of money.
10 Q. Okay. Well, that leads into the next
11 topic which is the school district budgets for

12 Drug-Free Schools and for TUPE.
13 A. Uh-huh.
14 Q. Now, do you administer school district
15 budgets --
16 A. No.
17 Q. -- for those amounts? Who does the
18 administering of the school --
19 A. Business office of the school district.
20 Q. And how are the funds budgeted for the
21 schools or for the school districts?
22 A. They -- they receive their entitlement
23 amount. And the administrator in charge of the
24 programs along with the advisory committee and
25 whatever administrative requirements that particular
26 district has decides what the -- the budget will go
27 for; and they make their budgets.
28 Q. Are you familiar with the process by

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1 which district entitlement amounts are set?
2 A. Well, we get allocation list from the
3 California Department of Education based on ADA.
4 Q. ADA means average daily attendance?
5 A. Yeah. For the grade levels that pertain
6 to the program.
7 Q. Do the school districts need to make
8 applications for those entitlements?
9 A. Yes. That's part of the consolidated
10 application process.
11 Q. Now, you say part of the consolidated
12 application process. You described the consolidated
13 application process with regard to your role as the
14 co-op director for small districts?
15 A. Right. But all districts in the state
16 fill out a consolidated application. We just do the
17 small districts in a co-op.
18 Q. Okay. Do you have any role in your
19 capacity as the tobacco education consultant in
20 preparing consolidated applications for any districts?
21 A. What -- I don't prepare them. But I
22 review them. I review the Safe and Drug-Free Schools
23 and the TUPE portion of them. State Department of Ed.
24 used to have us approve them. Now we just review them
25 and sign off on them.
26 Q. During what period of time did you have
27 responsibility for approving consolidated applications
28 to be submitted by school districts to the Department

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1 of Education?
2 A. Probably up until about three years ago
3 or four years ago.
4 Q. And do you review these consolidated
5 applications now as part of your duties as tobacco
6 education consultant?
7 A. Yes.
8 Q. Now, when you say review, what is it that
9 you in fact typically do with regard to the handling
10 of a proposed consolidated application?
11 A. Well, until this year, we had a budget
12 sheet plus a budget justification sheet that was quite
13 detailed. So with the budget justification sheet, you
14 could tell if their funding proposal was meeting the

15 guidelines that are set by the state law.
16 Prior to the TUPE and Drug-Free Schools
17 going into the con. app., they had their own
18 application which was the DATE application. And so we
19 were able to get a lot more information on program
20 objectives and actual program descriptions in that.
21 But once you become part of the consolidated
22 application, then you can no longer do that.
23 Q. So the consolidated applications contain
24 less detailed information --
25 A. Correct.
26 Q. -- concerning the Drug-Free Schools and
27 the TUPE Programs?
28 A. Correct.

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1 Q. Now, do you have any records concerning
2 what the entitlements for the individual districts in
3 Santa Barbara County have been in the past or
4 currently with regard to the Drug-Free Schools and
5 TUPE Programs?
6 A. That's something I didn't bring. But let
7 me find a couple of things. Here are some -- this is
8 a memo with general information that I had composed
9 for Bill Cirone. And so the page 1 shows some sample
10 district entitlements. You can have that copy. I
11 have another one.
12 MR. LERNER: We'll need to make one so --
13 Q. While we're waiting for that document to
14 be copied, are you familiar with the amounts actually
15 spent by school districts in their Drug-Free Schools
16 and TUPE budgets?
17 A. That's part of the consolidated
18 application. Their fiscal report is in Part 2 of the
19 consolidated application. And that's how they submit
20 it currently to the State Department of Ed.
21 Q. Can you tell us what typically the school
22 district budgets for Drug-Free Schools and TUPE are
23 spent on?
24 A. For large districts, you will have some
25 personnel costs like maybe a Outreach consultant or
26 coordinator at individual schools to implement the
27 program. Or you might have a contract with one of the
28 large counseling groups like Family Service Agency or

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1 in the north county the Santa Maria Youth and Family
2 Services.
3 And there will be on-site Outreach
4 consultants/counselors. They will do information
5 sessions. They will have kids at risk for or involved
6 in these various high risk behaviors referred to them
7 for counseling or to be given resources outside the
8 district. Maybe work with families.
9 Small districts -- and then also large
10 districts usually are the ones that use some of the
11 major curriculum programs like Here's Looking at you
12 2000. Or in the past, Quest's Skills for Growing and
13 Skills for Adolescents was very popular. And that
14 required coordination and training and a hefty outlay
15 for the curriculums itself.
16 Smaller districts tend to give a few
17 stipends to either teachers to implement the program

18 or to run activities that would be for like the Great
19 American Smokeout and Red Ribbon Week and other event
20 type of activities. There may be a drug-free club on
21 campus and go to conferences and bring back training
22 and stuff for teachers.

23 Smaller districts also take a portion of
24 their funding for these two programs and you might pay
25 for a portion of the day of a counselor on campus.

26 Q. The document you produced for me a few
27 minutes ago has been marked Exhibit 167. It is called
28 "Safe and Drug-Free Schools, S" -- "SDFSC, and

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1 Tobacco-Use Prevention Education, TUPE, Funds for
2 Santa Barbara County." What information is generally
3 shown on this document?

4 A. Like I said, it was just a memo that I
5 typed up for our superintendent when he was going to
6 attend a CEASE meeting.

7 (Defendants' Exhibit 167 was
8 marked for identification.)

9 Q. And that's for Mr. Cirone?

10 A. Correct.

11 Q. When did you prepare this document?

12 A. December 3rd, 1999. It was for
13 December 3rd, 1999.

14 Q. And was this prepared in the course of
15 your duties as the tobacco education consultant --

16 A. Yes.

17 Q. -- for the district?

18 A. For the county.

19 Q. For the county. Excuse me. So this
20 shows total entitlement for the district under the
21 Drug-Free Schools Program for the current fiscal year
22 as \$348,351. Is that how I interpret that first
23 number?

24 A. Correct, yes.

25 Q. And then under the TUPE Program for
26 Grades 4 through 8 for the current fiscal year --

27 A. Yes.

28 Q. -- the budget is \$154,065?

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1 A. Correct.

2 Q. And so on for the previous years?

3 A. Correct.

4 Q. Now, what is meant by sample district
5 entitlements?

6 A. Instead of giving him the whole list, I
7 just gave him some of the different size districts,
8 what their entitlements are.

9 Q. I see. So with regard to the SDFSC
10 column, you're showing what certain districts would
11 have received out of the \$448,351 total entitlement.

12 A. Correct. 300 and --

13 Q. All right. And similarly on the TUPE
14 column, you're showing what these districts received
15 out of the total 154,065 --

16 A. Correct.

17 Q. -- dollar entitlement? Okay. There's a
18 reference to a greatest-need entitlement for Santa
19 Maria-Bonita?

20 A. Yes.

21 Q. What does that mean?
22 A. Safe and Drug-Free Schools has a special
23 pot of funding for the highest-need districts which
24 would be districts that have high either violence --
25 on the Safe Schools Report would have a high incidence
26 of things on the Safe School Report or in the past
27 they had high AFDC rate.
28 But the allocation or how it's allocated

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1 has now changed. And so the current way it is
2 determined is from the -- the rate of high risk
3 behaviors on the California Healthy Kids Survey and
4 the incidence report under the Safe and Drug-Free --
5 Safe Schools Report, not Safe and Drug-Free. Safe
6 Schools Report.

7 And Santa Maria and the teeny little
8 district of Casmalia are the only that meet those
9 criteria in our county. And Casmalia does not
10 participate in either program, so they don't get the
11 funding.

12 Q. Do the high risk behaviors reflect any
13 degree of tobacco use?

14 A. Well, it would under the California
15 Healthy Kids Survey because there are two questions of
16 tobacco.

17 Q. So one of the factors that's considered
18 in allocating the greatest-need entitlement would be
19 the extent of tobacco use among the student
20 population?

21 A. Yes. Under the brand new way of
22 determining it.

23 Q. And when was the brand new way of
24 determining --

25 A. November 1999. Prior to that, it was the
26 welfare.

27 Q. Okay. Now, there's some references in
28 this memo to ADA amounts.

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1 A. Uh-huh.

2 Q. And if I understand this correctly, the
3 ADA amount for the Safe Schools Program for the
4 current fiscal year is \$3.94 per ADA?

5 A. Right. Right.

6 Q. And that means -- ADA in that context
7 means per --

8 A. Child in Grades K through 12 that on
9 their reports that they send in that their ADA
10 reports.

11 Q. Okay. So that just shows that the number
12 in effect shows the number of students --

13 A. Right.

14 Q. -- in the school?

15 A. Right.

16 Q. Or the district I should --

17 A. District, yeah.

18 Q. All right. And then the amount in 1998,
19 1999 for Safe Schools was \$4.83 per ADA?

20 A. Right.

21 Q. Now, with regard to TUPE funding, the
22 current amount as shown on this memo is approximately
23 \$4.50 per ADA for Grades 4 through 8?

24 A. Correct.
25 Q. And you're anticipating a reduction in
26 that amount for the fiscal year 2000, 2001 to
27 approximately \$2.50 per ADA?
28 A. Correct. And that is just a projection.

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1 I don't know what will happen yet.
2 Q. Could you explain what the sentence means
3 that begins -- that says "Legislation will be
4 introduced this year to change the format of delivery,
5 i.e., delete Grades 4/5; give entitlements to 6-8
6 only; expand competitive grants to Grades 6 through 12
7 and codify the Principles of Effective for TUPE as
8 well as SDFSC"?

9 A. Principles of Effectiveness. I obviously
10 didn't proofread. The TERO, Tobacco Education and
11 Research Oversight Committee has made recommendations
12 these changes be made in the structure of the schools
13 program. And as the number of smokers in the state of
14 California goes down -- the adult smokers anyway -- we
15 receive less funding because it's based on
16 Proposition 99's tax on cigarettes.

17 So when the amount has gone down, we have
18 dropped off grade levels. So we went from K-12 to
19 4-8. And now TERO is recommending -- actually, TERO
20 would like it to go to a competitive grant program
21 instead of an entitlement program. And it looks like
22 if we do have any survival of entitlement program, it
23 will only be for Grades 6 through 8; and then Grades 6
24 through 12 can also apply for a competitive grant for
25 tobacco.

26 The Principles of Effectiveness are what
27 we have -- we first received in Getting Results Part
28 I. And they are national Principles of Effectiveness.

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1 And they will be in the reauthorization for Safe and
2 Drug-Free Schools in law, not just recommendations
3 from the Department of Education in Washington.

4 And they will be put into the -- whatever
5 new legislation comes about for the TUPE Program in
6 the state of California.

7 Q. And you've shown me the national
8 Principles of Effectiveness that are contained on page
9 11 of Getting Results Part II which is Exhibit 161?

10 A. Correct. Basically in a couple of words,
11 it's a four-step process. You have to -- to determine
12 through a high quality survey what your -- the
13 attitudes and prevalence of use of drugs, alcohol and
14 tobacco. Then you have an advisory committee that
15 sets goals that would indicate how much you're going
16 to forestall use or to reduce use.

17 And in the consolidated application, we
18 have what's called Principles of Effectiveness where
19 the districts have to determine indicators that they
20 are going to be working toward. And then the third
21 piece is then to come up with a program from these two
22 documents based on research based programs not just
23 whatever looks good that comes through.

24 And the fourth phase is to evaluate your
25 programs on a yearly basis.

26 Q. Your next sentence in Exhibit 167 states:

27 "This will preserve funding at about 4.50 to \$5 per
28 student"?

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1 A. If we delete Grades 4 and 5.
2 Q. Okay. So for Grades 6 through 8, you
3 would have the same level of ADA. But there would be
4 no funding entitlement for Grades 4 and 5?
5 A. Right.
6 Q. On the second page of this document, you
7 refer to some -- you make some comments about strong
8 TUPE Programs in certain districts; is that correct?
9 A. Correct.
10 Q. Are you familiar with the implementation
11 of the TUPE Programs in the Santa Barbara County
12 school districts?
13 A. In some more than others. And so I put
14 some of the ones that I have more information about.
15 Q. Are you also familiar with the
16 implementation of the Drug-Free Schools Programs --
17 A. Yes.
18 Q. -- in the Santa Clara school districts?
19 A. Santa Barbara.
20 Q. Santa Barbara. Thanks.
21 A. Yes, I am.
22 Q. All right. And your familiarity in both
23 areas is based on your ten years of experience as the
24 consultant for those programs?
25 A. Yes. Might we turn on some air
26 conditioning?
27 (Discussion off the record.)
28 ///

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1 BY MR. LERNER:
2 Q. Just to return to the question of the
3 program entitlements, has the level of TUPE -- overall
4 level of TUPE entitlements varied over the years?
5 A. Yes. It has.
6 Q. Okay. What's the range of TUPE
7 entitlements for the Santa Barbara County school
8 districts and aggregate been since 1989?
9 A. I really don't remember the numbers.
10 Q. Do you have any recollection of the
11 numbers for the Safe Schools Program?
12 A. No.
13 Q. Are there other documents that we
14 could -- that would refer us to the numbers for prior
15 fiscal years other than Exhibit 167?
16 A. I might have a couple of them for the
17 last couple years, but I don't keep anything longer
18 than three -- two or three years.
19 Q. Is there any other place where those --
20 A. It would be the California Department of
21 Education. The Healthy Kids Program Office would have
22 all of those. They are the people that send us the
23 entitlement amounts.
24 MR. LERNER: Thank you. Let's go off the
25 record a second.
26 (Discussion off the record.)
27 MR. LERNER: Back on the record.
28 Q. Mrs. Waldau, in the course of your work

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1 as the tobacco education consultant or the -- has --
2 have there been to your knowledge any curriculum goals
3 established with respect to teaching children about
4 the risks of ETS?

5 A. Yes. They're -- the goal is to provide
6 a -- an integrated comprehensive Tobacco-Use
7 Prevention instruction for all students Grades 4
8 through 8. I can give you a copy of the requirements
9 for the curriculum. The essential topics are the --
10 excuse me -- immediate and long-term undesirable
11 physiological, cosmetic and social consequences of
12 tobacco use, reasons why adolescents say they smoke or
13 use tobacco, peer norms and social influences that
14 promote tobacco use and refusal skills for resisting
15 social influences that promote tobacco use.

16 And they want the activities to be based
17 on research and evaluation that provide evidence that
18 the strategies used do prevent or reduce drug use,
19 violence or disruptive behavior. Those are compliance
20 review -- coordinated compliance review taken out of
21 the legislation that districts go through every four
22 years.

23 Q. Okay. You've handed me a document called
24 "Title IV, Safe and Drug-Free Schools and Communities
25 and Tobacco-Use Prevention Education." And at the
26 bottom it says: "Coordinated Compliance Review
27 Training Guide 2000-2001." We'll have this marked.
28 And so we've marked this Compliance Review Training

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1 Guide as Exhibit 168.

2 Which portions of this document deal with
3 ETS education?

4 A. I don't think any of it will deal
5 specifically with ETS education. The part that I read
6 to you on -- it's just general. And the essential
7 topics come in the CDC guidelines which are elaborated
8 more fully in the Getting Results Part II.

9 (Defendants' Exhibit 168 was
10 marked for identification.)

11 Q. And is this Compliance Review Training
12 Guide something you've recently received?

13 A. Well, I receive one each year as they
14 change it for the current laws.

15 Q. And do you understand that some education
16 pertaining to the risks -- health risks of ETS is
17 customary in order to meet compliance requirements?

18 A. Correct.

19 Q. And for how long has that been true?

20 A. Since the beginning of our legislation.

21 Q. In 1989?

22 A. Correct. Drug-Free Schools is an older
23 program than 1989.

24 Q. I'm sorry. So some ETS education or
25 risks pertaining to the ETS have been part of the
26 curriculum for compliance purposes since before 1989?

27 A. I have no idea. Because that would have
28 been Safe and Drug-Free Schools. And I don't know

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1 who -- when stuff began to be put into the
2 curriculums. I've got different year curriculums with

3 me today that I can show you, but I'm not sure when it
4 began.

5 Q. Just as you sit here -- before you look
6 at any of those documents -- when to your recollection
7 was any information pertaining to ETS included in the
8 curriculums?

9 A. I think the first one I saw was about
10 '92.

11 Q. Okay. Now, you mentioned that TUPE at
12 the beginning covered grades K through 12.

13 A. Correct.

14 Q. And how many years did that last?

15 A. I'm not positive. I don't know if it was
16 '95 or '96. Somewhere in the mid '90s.

17 Q. And at the time that the coverage
18 changed, it was restricted to four through eight?

19 A. Right. With the competitive grants being
20 9 through 12.

21 Q. Okay. Now, with regard to the Drug-Free
22 Schools Program, in 1989 do you recall what grades
23 Drug-Free Schools might have covered?

24 A. Drug-Free Schools has always been K-12.

25 Q. After the TUPE Program was restricted to
26 4 through 8 entitlements and 9 to 12 competitive
27 grants, was there another source of funds you're aware
28 of that covered K through 3?

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1 A. No.

2 Q. Do you happen to know whether individual
3 districts have their own sources of funds for K
4 through three tobacco control -- prevention education?

5 A. I don't have any direct knowledge of that
6 because I don't see what's in their budgets other than
7 Drug-Free Schools and TUPE portions.

8 Q. Okay. So in order to determine whether
9 there were other local budgets for tobacco prevention
10 education, we'd have to go to each district?

11 A. Right. But they've generally just been
12 cutting. See, that's -- the categorical funds is
13 considered soft money. And when the funding goes
14 away, then program goes away. And that's why under
15 categorical programs districts or county offices don't
16 tend to hire employees because then it's hard to get
17 rid of employees.

18 So they kind of play a wait and see:
19 "How long is this funding going to be here?" Because
20 things come and go so quickly.

21 Q. Now, generally speaking, do the tobacco
22 education curricula at the individual districts come
23 in the form of a separate program that's added on to
24 the otherwise regular curriculum?

25 A. Right. That's probably as individual as
26 there are districts almost. The larger districts with
27 many schools tend to have more of the commercial
28 programs that can be implemented in a across-the-board

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1 manner; whereas the small one-school school districts
2 usually infuse lessons in with their existing classes
3 like health or science.

4 Some of them have picked up pieces of
5 programs and use it for some grade levels. But it's

6 really pretty individual.
7 Q. When you talk about across the board in a
8 larger district with many schools, do you mean a
9 separate tobacco education program or curriculum?
10 A. For example, the Orcutt School District
11 uses Here's Looking at you 2000 curriculum. And they
12 might also use Get Real About Tobacco or smaller
13 things in a less comprehensive way. And Lompoc
14 District uses a major curriculum like Here's Looking
15 at you 2000.
16 Q. Okay. Do some districts also include
17 tobacco education in regular textbooks?
18 A. I would imagine the ones that list that
19 they -- that their tobacco education is part of the
20 health curriculum would be using their comprehensive
21 health curriculum text. I believe an example might be
22 "The Great Body Shop" that Goleta School District
23 uses.
24 Q. What is "The Great Body Shop"?
25 A. It's a comprehensive health program.
26 MR. LERNER: Let's go off the record a
27 second.
28 (Recess.)

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1 (At this time Mr. L'Orange
2 exited the deposition room.)
3 MR. LERNER: We can just go back on the record.
4 Q. With reference to Exhibit 161, Getting
5 Results Part II, I see you've highlighted certain
6 portions of the document in order to show those
7 references to environmental tobacco smoke. Is that
8 correct?
9 A. Yes.
10 Q. All right. And with regard to curriculum
11 development, you've highlighted portions of pages 23
12 and 24 that show the factors developed by the Centers
13 for Disease Control and Prevention in 1994?
14 A. Correct.
15 Q. And are these the points of the
16 curriculum that you make available to districts with
17 regard to ETS education in Santa Barbara County?
18 (At this time Ms. Thro
19 exited the deposition room.)
20 THE WITNESS: Those are recommendations of what
21 should be included in a comprehensive tobacco
22 prevention program. And so some curriculums have them
23 in and some do not. But those are -- those are the --
24 kind of the standard that they would like to see as a
25 totally comprehensive program.
26 BY MR. LERNER:
27 Q. Well, for example, on page 23, one of the
28 recommendations for curriculum is the point

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1 "environmental tobacco smoke is dangerous to health"?
2 A. Yes.
3 Q. Is that point included in curriculums
4 which to your knowledge are used in Santa Barbara
5 County schools?
6 A. Yes.
7 Q. Okay. And then with regard to middle and
8 junior high school curriculum, one of the CDC points

9 is "maintaining a tobacco-free environment has health
10 benefits." To your knowledge, is that a point that's
11 included in curriculums used in Santa Barbara County
12 schools?
13 A. Yes.
14 Q. And for the same age group -- middle,
15 junior high school -- there's also the point
16 "community organizations have information about
17 tobacco use and can help persons to stop using
18 tobacco." Is that also a point in the curriculum used
19 in the Santa Barbara County schools?
20 A. I'm not sure how much is part of the
21 curriculum, but it is certainly part of the
22 tobacco-free policies in that resources must be made
23 available to students or teachers or parents that
24 would need that information.
25 Q. Now, on page 24 of the booklet -- the
26 handbook contains information concerning attitudes
27 that students will be encouraged to demonstrate by
28 reason of the curriculum; is that correct?

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1 A. Yes.
2 Q. And one of those attitudes for later
3 elementary school is "support for others' decisions
4 not to use tobacco." Is that to your knowledge an
5 attitude or a goal?
6 A. Yes.
7 Q. An attitude? That's a goal of the
8 curriculum of Santa Barbara County?
9 A. Yes, yes.
10 Q. And for the middle and junior high
11 school, one of the attitudes is "responsibility for
12 personal health." Is that also an attitude that is
13 encouraged by the curriculum used in Santa Barbara
14 County?
15 A. Yes.
16 Q. And how does that particular attitude
17 relate to environmental tobacco smoke?
18 A. It relates to environmental tobacco smoke
19 in that the choices of where -- of who you hang out
20 with, if you hang out with smokers or if you are in a
21 household where there are smokers, trying to negotiate
22 not being cooped up with environmental tobacco smoke,
23 maybe suggesting that the smoker smoke outside or in
24 one particular room or not in cars type of thing.
25 Q. I see that under the same -- in the same
26 column under skills, there's a skills that are to be
27 developed include request a smoke-free environment.
28 A. Yes.

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1 Q. That's what you mean?
2 A. Yes.
3 Q. As part of your responsibilities as the
4 tobacco education coordinator, do you make resources
5 available to the individual school districts of
6 curriculum or resources by way of curriculum materials
7 or otherwise pertaining to the risks of environmental
8 tobacco smoke?
9 A. Yes.
10 Q. Okay. Let's mark that. Okay.
11 Exhibit 169 is a document you brought today called

12 "Guide to Educational Resources, Santa Barbara County
13 Health Care Services, Tobacco Education Program"
14 addressed "Dear Educator." Now, can you please
15 describe what this document is and how you use it.
16 A. This is the document from what's now
17 termed as the Public Health Department, the Tobacco
18 Education Program. And they keep a lending library of
19 instructional materials and videos and are resources
20 to the schools. If the schools request, they can
21 borrow these things. I have borrowed several things
22 from them.
23 (Defendants' Exhibit 169 was
24 marked for identification.)
25 Q. And have you utilized these materials in
26 the trainings that you've given?
27 A. I've used some of them.
28 Q. Have you utilized any of the materials

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1 pertaining to ETS?
2 A. Yes. I've used a video called "Dusty the
3 Dragon."
4 Q. That's shown on -- highlighted on the
5 first page --
6 A. First page under videos.
7 Q. And the other -- can you just identify
8 the other items that you've highlighted?
9 A. There are other videos that are
10 highlighted that pertain to secondhand smoke or ETS.
11 Q. "Growing up Without Tobacco"?
12 A. I have not used any of these other
13 resources.
14 Q. So the ones you've highlighted are ones
15 that you've used that pertain to risk of secondhand
16 smoke?
17 A. No. I've just highlighted all the ones
18 on that particular resource that had to do with
19 environmental tobacco smoke. Out of the ones that I
20 have highlighted, I have only used "Dusty the Dragon"
21 myself.
22 MR. LERNER: Off the record.
23 (Discussion off the record.)
24 MR. LERNER: Let's go back on the record.
25 Q. Mrs. Waldau, do you know whether these
26 videos have actually been used in the Santa Barbara
27 County public schools?
28 A. I do believe that some of them have been

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1 used. I know that "Dusty the Dragon" is still a video
2 that teachers and children enjoy, children of all
3 ages. It's a good video. And then they also have
4 some educational materials like "Mr. Grossmouth" and
5 "Some Lungs." And I know that the districts have
6 borrowed those materials.
7 And I know that they have lent districts
8 materials on prenatal substance abuse or tobacco-use
9 prevention, things like that.
10 Q. I notice that the date of the last film
11 or the latest date of these videos is 1992. Can you
12 tell me approximately -- or 1993 for one of them. Do
13 you happen to know when this -- when you began using
14 this list as a resource for schools?

15 A. It would have been right away. I think
16 in the early '90s: '91, '92.
17 Q. And you've still been making these videos
18 or this resource available to the districts?
19 A. Yes.
20 Q. Okay. You also brought with you today
21 Exhibit 170 which is a document called "Healthy Kids
22 Resource Center Product List Borrowing Materials"?
23 A. Uh-huh.
24 (Defendants' Exhibit 170 was
25 marked for identification.)
26 Q. What is this document?
27 A. Healthy Kids Resource Center is a
28 contract or one of the key components of Prop 99

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1 funding that's under the California Department of
2 Education. And school districts and county offices
3 can borrow these materials. And now they have an
4 on-line catalog which makes it much easier to share
5 this information with people in the districts.
6 Q. And is this a resource that you've made
7 available to districts?
8 A. Yes. I have.
9 Q. And when did you begin making this
10 available?
11 A. When did the resource center start?
12 Maybe around 1994. Somewhere in the mid '90s they
13 began.
14 Q. And to your knowledge, have these
15 resources been utilized in the Santa Clara -- in the
16 Santa Barbara County public schools?
17 A. Some of them have, yes.
18 Q. And do you know which of them relating to
19 secondhand smoke have been used in the schools?
20 A. Let's see. No. I really am not sure.
21 The -- I do know that on page -- on the one that is
22 the borrowing materials, the second set of them, it
23 starts with the S's. Says page 1 of 4. On page 2 of
24 4, "Tobacco-Free High School" is the set of lessons
25 that are the infusion lessons that were distributed to
26 all middle and high school programs. This
27 particular --
28 Q. In Santa Barbara County?

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1 A. Statewide.
2 Q. Statewide?
3 A. This particular document was an
4 attachment to the competitive grant for 9 through 12.
5 And so that's why -- what this list pertains to, high
6 school -- the audience is high school, 9-12.
7 Q. In other words, this was a resource that
8 was provided as part of your grant applications?
9 A. It was provided as a part of the state
10 Department of Ed.'s grant application.
11 Q. And there are two high schools in Santa
12 Barbara County that have received those competitive
13 grants; is that correct?
14 A. Right. But we do regularly distribute
15 information on the resource center. In past years,
16 there sometimes have been kits that they have sent out
17 to county offices to share with districts. And now I

18 think it's much more popular to use since they've gone
19 on-line.

20 Q. Okay. Exhibit 171 is a document called
21 "Great American Smokeout Fact Sheet"?

22 A. Yes.
23 (Defendants' Exhibit 171 was
24 marked for identification.)

25 Q. You brought this document -- you produced
26 this document today and have marked certain portions
27 of it, highlighted certain portions of it. And
28 does -- do the Santa Clara -- do the Santa Barbara

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1 County public schools participate in the Great
2 American Smokeout?

3 A. Yes. I think the majority of schools
4 districts participate in the Smokeout.

5 Q. Does your office do anything to
6 facilitate participation by the schools in the Great
7 American Smokeout?

8 A. I hand out at our advisory committee
9 meetings and usually send out information that can be
10 used by teachers and schools to -- to implement a set
11 of lessons around that time.

12 Q. Okay. And is the exhibit -- at the
13 bottom of the first page of Exhibit 171 there are some
14 references to secondhand smoke under the topic "Youth
15 and Tobacco"?

16 A. Yes.

17 Q. Is this a document that you made
18 available to or handed out to the coordinators?

19 A. Yes.

20 Q. And what year was this document from?

21 A. This is probably one of the more current,
22 in the last two years. I don't -- haven't kept them
23 over the years. But I continue to use them because
24 they're -- they're not really time-dated in any way
25 so --

26 Q. They're still topical?

27 A. Yeah. I've probably handed out these
28 materials for the Smokeout all through the '90s from

92

1 the American Cancer Society.

2 Q. Exhibit 172 is a media and promotion
3 guide, 1996, for the Great American Smokeout. I'll
4 represent to you that this was produced to us by the
5 Education Office in the past. And if you refer to
6 page 22, it contains a form of press release relating
7 to -- entitled: "The American Cancer Society's 20th
8 Annual Great American Smokeout Draws Attention to the
9 Dangers of Secondhand Smoke."

10 Is this a document that you recall having
11 in your files?

12 A. I probably did. It just is not something
13 I have used extensively.

14 (Defendants' Exhibit 172 was
15 marked for identification.)

16 Q. You said you made use in the past of the
17 Great American Smokeout media and promotion guide.
18 What use have you made?

19 A. I honestly don't remember. I may have
20 sent the whole thing out, or I may have figured that

21 to the average classroom teacher it really wasn't --
22 Q. Wasn't --
23 A. -- as germane as some of those activities
24 in the previous document.
25 Q. So it was your practice -- custom and
26 practice to make -- or to distribute the Great
27 American Smokeout fact sheet which contains the direct
28 information concerning the health risks of tobacco?

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1 A. Well, what contains -- contains the
2 individual activities for teachers to easily implement
3 during that week in the classroom. I think the media
4 guide went -- more or less takes somebody to
5 coordinate something at the district level or a school
6 level; whereas that could be readily just Xeroxed and
7 given to teachers.

8 Q. So, for example, with regard to
9 Exhibit 171, there's a sample lesson called "Breathing
10 Someone Else's Smoke"?

11 A. Yes.

12 Q. And includes a lesson in 32 poisons in
13 tobacco smoke?

14 A. Yes.

15 Q. Or "Keep Me Tobacco-Free"? So this is
16 the document that you made available for teachers --

17 A. That's correct.

18 Q. -- to use in the classroom?

19 A. That's correct. Absolutely.

20 Q. And to your knowledge, was this document
21 in fact employed in the schools?

22 A. I would imagine that it had a good
23 coverage because teachers are always looking for those
24 kind of activities that they can do during those
25 special times.

26 Q. You produced today also Exhibit 173 which
27 is a document called "CDC's Guidelines for School
28 Health Programs Preventing Tobacco Use and Addiction."

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1 A. Yes.

2 (Defendants' Exhibit 173 was
3 marked for identification.)

4 Q. And you've also highlighted on this
5 document the portions that pertain to the risks of
6 ETS; is that correct?

7 A. Yes.

8 Q. Now, have you used this document in the
9 course of your work as the tobacco education
10 consultant?

11 A. Yes, I have.

12 Q. And how have you used it?

13 A. I have used that with the advisory --
14 county advisory committee and I am sure that at
15 various workshops that we have sponsored as a county
16 office that I've used that as a handout. But I don't
17 remember specifically which ones.

18 Q. The advisory committee you're referring
19 to is the Drug-Free Schools and TUPE Advisory
20 Committee?

21 A. Yes.

22 Q. That means you've handed it out to the
23 various district coordinators --

24 A. Yes.
25 Q. -- or committee members?
26 A. Yes.
27 MR. LERNER: What was the second part? Off the
28 record.

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1 (Record read.)
2 BY MR. LERNER:
3 Q. Have you used Exhibit 173 in training
4 programs?
5 A. I'm sure I've used it as handout in
6 various training programs when -- when these
7 guidelines came into, you know, use about the time
8 that tobacco-free infusion lesson. So what was it?
9 '74 -- I mean '94, '95.
10 Q. And have you continued to make use of it
11 since then?
12 A. Yes. Because it's part of our current
13 documents and current guidelines that are in Getting
14 Results Part II.
15 Q. How frequently do you hand this out or
16 otherwise make it available to coordinators or
17 teachers?
18 A. Probably did extensively when they first
19 came out '94, '95. And we probably -- actually, no.
20 This didn't come out until June '97. I'm sorry. So
21 it's been since '97 that I've used it, this particular
22 document.
23 Q. Right. And did you use it -- did you
24 hand out a version of the guidelines -- a previous
25 version of the CDC guidelines?
26 A. Yes.
27 Q. You began doing that in 1994?
28 A. Right. And this was a more expanded --

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1 more expanded handout. So I'm sure that when it came
2 out that I got it out to all of the school districts.
3 MR. LERNER: Okay. Let's go off the record a
4 second.
5 (Discussion off the record.)
6 BY MR. LERNER:
7 Q. Mrs. Waldau, you brought with you today a
8 binder containing a document called "Healthy Kids
9 Tobacco-Free Tobacco-Use Prevention Education
10 Teacher's Guide" dated May 1992 developed by the
11 Capital Region Healthy Kids Center, California
12 Department of Education.
13 Now, is this a document that you've used
14 in your work?
15 A. Yes. I have.
16 (Defendants' Exhibit 174 was
17 marked for identification.)
18 Q. What use have you made of that?
19 A. I received training from State Department
20 of Education on this curriculum. And then in our
21 county -- in Santa Barbara County, Dawn Dunn from the
22 Public Health Department Tobacco Education Program and
23 myself offered at least two trainings for community
24 organizations and school districts and other people
25 that would be interested in tobacco education at the
26 health services facility.

27 And then I continued to use it probably
28 for a good three years with new coordinators and the

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1 advisory committee because it was the most
2 comprehensive tobacco piece that we had at that time.
3 Q. Okay. So this -- this document is a -- a
4 curriculum guide --

5 A. Yes.

6 Q. -- for teachers?

7 A. Yes.

8 Q. And it was used by you in training
9 community organization -- people from community
10 organizations and school districts?

11 A. Yes.

12 Q. And you used it from 1992 through about
13 1995?

14 A. I think that would have been the height
15 of its use. I know there are people who still use
16 those lessons today, but it's sort of outdated.

17 Q. You know there are people in Santa
18 Barbara County who use those lessons today?

19 A. I believe Guadalupe School District still
20 uses that.

21 Q. Okay. Now, this teacher's guide contains
22 information that you've highlighted pertaining to ETS;
23 is that correct?

24 A. Correct.

25 Q. And is that information that you made
26 available to or that you actually made available to
27 the persons who received training to use?

28 A. They weren't things that I highlighted,

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1 but they are part of the curriculum; so we tried to
2 train people on the total curriculum.

3 Q. Now, is a copy of this booklet also made
4 available to the people who received training?

5 A. Yes.

6 Q. So you would not only be referring --
7 when you gave the training, you would not -- you not
8 only have your own copies of the teacher's guide?

9 A. Right.

10 Q. You'd be referring to it --

11 A. We gave everyone who attended one of
12 those teacher's guide.

13 Q. So you distributed this to people from
14 the individual school districts in Santa Barbara
15 County?

16 A. Yes. I did.

17 Q. Now, can you tell me the references in
18 this teacher's guide to the risks -- health risks of
19 ETS that were part of the curriculum development?

20 A. The foundation for our Drug-Free Schools
21 and Tobacco Program, the research foundation was on
22 risk and protective factors. And one of the influence
23 groups under the risk factors and protective factors
24 is the family. And so use of tobacco, alcohol or
25 other drugs by parents or parent having a positive
26 attitude toward use is one of the risk factors.

27 And the risk and protective factors
28 research is Hawkins Research out of the University of

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1 Washington which formed the basis of risk and
2 protective factors.
3 Q. One of the portions you highlighted in
4 the booklet is under the topic "Environmental Smoke"
5 which is part of Handout A in Chapter 2. And is this
6 a -- which pertains to ETS. Is that information that
7 was also made available --
8 A. Yes.
9 Q. -- as part of the training?
10 A. Yes.
11 Q. Now, does this book contain information
12 that was imparted that describes how information
13 concerning the risks of ETS have found their way into
14 the curriculum at all?
15 A. There are lists of various curriculums,
16 and there are graphs that show the key components of
17 each curriculum; and so those that have a component on
18 ETS are indicated in this guide.
19 Q. And this curriculum list is Section 3 of
20 chapter -- of the chapter called "Tobacco Topics"; is
21 that correct?
22 A. Yes.
23 Q. Now, the document that the curriculum
24 list -- you're referring to the tobacco topics
25 curriculum grid?
26 A. Correct.
27 Q. Okay. And that document shows under a
28 line item called "Environmental Smoke" or "Secondhand

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1 Smoke" which curriculums address ETS?
2 A. That's correct.
3 Q. Okay. And the curriculum list itself is
4 on the previous page. Are you aware of whether any of
5 these curriculums have reference to ETS were in fact
6 used in Santa Barbara County?
7 A. Okay. Here's Looking at you 2000, Grade
8 7 through 9, second edition is used in the county or
9 has been used in the county. Into Adolescent Living
10 Without Tobacco has been used in the county. I don't
11 think many people use that anymore. Project Alert,
12 Grade 7 is used by a handful of school districts in
13 the county.
14 Discover Skills for Life could be. I'm
15 not positive but -- and definitely Skills for
16 Adolescents, second edition has been used in several
17 of the large districts in the county.
18 Q. And the curriculums you just named were
19 ones that were available in 1992?
20 A. Correct.
21 Q. Have you made use -- have there been
22 subsequent editions of the teacher's guide?
23 A. No, there have not.
24 Q. Okay. So are you using different
25 materials for training purposes --
26 A. Yes.
27 Q. -- at the present time?
28 A. Yes.

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1 Q. And since 1995, you've been using
2 different guides for training?

3 A. Yes. As -- as they've become available,
4 we've -- we've continued to train and disseminate.
5 Q. And have your training guides since you
6 stopped using Exhibit 174 also contained materials
7 pertaining to ETS?
8 A. Yes. I think the next ones that came
9 through the Department of Education would have been
10 the Tobacco-Free Tobacco-Use Prevention lessons for
11 middle school and high schools.
12 MR. LERNER: Off the record.
13 (Discussion off the record.)
14 MR. LERNER: Let's go back on.
15 Q. Mrs. Waldau, you've brought out the
16 training guides that have been -- that you've been
17 using since 1995, actually copies of lessons called
18 "Tobacco-Free Tobacco-Use Prevention Lessons." And
19 you've brought out two groups of lessons, one for high
20 school and one for middle school.
21 And these group of lessons for high
22 school and middle school have been marked as
23 Exhibits 175 and 176 respectively. Are these the
24 lessons that you've been using for training purposes
25 since 1995?
26 A. We used them for training purposes when
27 they came out in 1995 because all middle school and
28 high schools received them.

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1 (Defendants' Exhibits 175 and 176
2 were marked for identification.)
3 Q. Okay. You need your original; right?
4 Let's mark that, and that can be back with that.
5 We've marked as Exhibit 177 a memorandum to county
6 superintendents from David Meaney. This is on the
7 letterhead of Sacramento County Office of Education.
8 And the date of this memo is December 19, 1995.
9 Is this when you received the
10 Exhibits 175 and 176?
11 A. Yes. It was
12 (Defendants' Exhibit 177 was
13 marked for identification.)
14 Q. It describes these materials as lessons
15 designed for infusion into the subject matter
16 curriculum. What does infusion mean in this context?
17 A. Instead of tobacco education being an
18 add-on, separate topic, they've taken lessons that
19 they have particularly developed for each of the major
20 core subjects like math and English, language, social
21 studies and some other areas like health and
22 performing arts.
23 And so the concepts that are normally
24 taught at these grade levels are using tobacco as
25 their particular subjects or illustrations.
26 Q. In particular, the health risks of
27 tobacco get integrated into the subject matter --
28 A. Correct, uh-huh.

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1 Q. -- curriculum? Exhibit 178 is a copy of
2 a memo to district and county TUPE coordinators from
3 Cheryl Raney also on letterhead of Sacramento County
4 Office of Education dated November 20, 1995. And
5 attached to it is a page at the top says "Tobacco-Free

6 Middle School Lessons."
7 Can you identify the memo that's the
8 first page of this exhibit?
9 A. Yes.
10 (Defendants' Exhibit 178 was
11 marked for identification.)
12 Q. Okay. What is that?
13 A. Well, it was a cover memo that came with
14 the set -- set of lessons that I would have received
15 as a county TUPE coordinator.
16 Q. So you received the lessons that is
17 Exhibits 175 and 176 from Cheryl Raney?
18 A. I'm sorry. This one specifically
19 pertains to the middle school lessons with the note
20 that the high school lessons would be sent out within
21 two weeks.
22 Q. So you first received the middle school
23 lessons?
24 A. Correct.
25 Q. And then shortly after that, high school?
26 And were the lessons also separately sent to the
27 county superintendents? Is that your understanding?
28 A. I would assume so because of the previous

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1 memo that you showed me that was sent to Mr. Cirone
2 and then forwarded on to me.
3 Q. And the initials LBW at the top are
4 yours?
5 A. That's Lorraine Bostick Waldau, my
6 initials.
7 Q. And that was somebody else's writing?
8 A. Yes.
9 Q. So this document was then routed -- the
10 original of this document that is Exhibit 177 was
11 routed to you?
12 A. Correct.
13 Q. And it was received by Mr. Cirone?
14 A. Correct.
15 Q. Okay. Now, referring again to
16 Exhibit 178, the second page of that is taken from --
17 from one of the pages in one of the -- one of the
18 documents in Exhibit 176; is that correct?
19 A. (Witness nods head.)
20 Q. You have to say yes or no.
21 A. Yes.
22 Q. Okay. And does this document contain any
23 reference to ETS or education related to the risks of
24 ETS?
25 A. It contains guidelines pertaining to the
26 knowledge, attitudes and skills that they would -- CDC
27 would like to be part of the instructional concepts.
28 And "support for others' decisions not to use tobacco"

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1 would be an example of one of the attitudes. Let's
2 see. There's other --
3 Q. "Maintaining a tobacco-free environment
4 has health benefits," is that a reference to ETS?
5 A. Yes, yes. It is, yes.
6 Q. And is "responsibility for personal
7 health" also a reference to ETS?
8 A. It would be part of -- part of that, yes,

9 uh-huh.
10 Q. And with regard to skills, the last two
11 items are "development methods for coping with tobacco
12 use by parents and with other difficult personal
13 situations such as peer pressure to use tobacco." Is
14 that also a reference to coping with ETS?
15 A. Yes. It is.
16 Q. And the last item under skills is
17 "request a smoke-free environment." Is that also a
18 lesson with respect to coping with ETS?
19 A. Yes. It is.
20 Q. Now, have the exhibits -- the lessons
21 which are found in Exhibits 175 and 176 been used in
22 the Santa Barbara County public schools?
23 A. Yes. They have. I can't say there --
24 they've been used at all schools or in all districts.
25 But they have been distributed to all districts and --
26 and it was a positive response to these because it
27 helped with the argument that teachers didn't have
28 time to include tobacco prevention education.

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1 Q. In other words, by putting them into
2 the -- infusing these concepts into the curriculum,
3 you could kill two birds with one stone?
4 A. Exactly. Personally I've used them in
5 Cuyama and in Los Olivos, and I think they're very
6 good.
7 Q. And how long have you personally used
8 them in your work there?
9 A. I probably used them -- pieces of them
10 for two -- two years. And then I -- I use other
11 pieces as they become available to try them out so I
12 can pass on that information.
13 Q. Now, Exhibit 1 -- is Exhibit 175 --
14 that's the high school lessons -- still in use in
15 Santa Barbara County public high schools?
16 A. The tobacco prevention lessons for 9
17 through 12 are strictly through competitive grant. So
18 these are the common curriculum in the 9-12 grants
19 across the state. I'm a grant reader for 9-12. I do
20 not believe that one -- the two districts that have
21 one in Santa Barbara may be using it, but I'm not
22 positive. But it's still commonly used in high
23 schools throughout the state.
24 Q. And that's still commonly used because
25 it's infused into the curriculum? Is that -- is that
26 the reason?
27 A. Yes. And because it's a very compact
28 package. I mean it's a very user-friendly set of

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1 lessons and very, very good materials.
2 Q. Has the level of usage of the high school
3 lessons across the state to your knowledge been
4 affected by the elimination of TUPE funding for Grades
5 9 through 12?
6 A. These would have come out at about the
7 time that -- that the high school went to competitive
8 grant so -- or just before we went to competitive
9 grant. I'm not sure exactly of the timing. So once
10 we went to competitive grant, I'm sure that many high
11 schools then that didn't use tobacco prevention as

12 much as they did before when they were receiving
13 direct funds, entitlement funds.
14 Q. So are you saying Exhibit 175 would not
15 have been --
16 A. It was heavily -- heavily used with the
17 ones that went for a grant.
18 Q. Okay.
19 A. And I would have no way of knowing
20 exactly how it was used for those districts that
21 didn't choose to apply.
22 Q. Now, with regard to Exhibit 176, the
23 middle school lessons, is that -- are those lessons
24 still in use in Santa Barbara County?
25 A. I believe they are.
26 Q. And what grades are those lessons
27 provided for?
28 A. That would either be for junior highs

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1 which were seven or eight or middle schools which were
2 six through eight depending on the district structure.

3 MR. LERNER: Let's go off the record.

4 (Discussion off the record.)

5 BY MR. LERNER:

6 Q. Mrs. Waldau, in reviewing Exhibit 175,
7 have you located the portions of the -- I'm sorry --
8 Exhibit 176, have you located portions of the middle
9 school lessons that contain the references to the
10 risks of ETS?

11 A. Yes. Under Student Resource A, for
12 example, this example is coming out of the Performing
13 Arts Lesson 1. There are ten reasons for remaining
14 tobacco-free. Number 10 is you will not be polluting
15 the air or exposing others to secondhand smoke.

16 Each of the different subjects deal with
17 the CDC attitudes and skills. So they're usually
18 found embedded in the lessons.

19 Q. Right. And the lessons also contain
20 information pertaining to ETS? For example, it's
21 correct that the science booklet which is part of
22 Exhibit 176 contains a page "What's in tobacco smoke?"

23 A. Correct.

24 Q. This describes also some of the risks of
25 ETS?

26 A. Yes.

27 Q. This particular science lesson "What's in
28 Tobacco Smoke?" which lists the various substances

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1 found in tobacco smoke such as carcinogens, metals,
2 acetone, acid, so on through the page through vinyl
3 chloride, what grade level is that lesson associated
4 with?

5 A. Well, that would be for middle school
6 which would be starting at grade six or seven. But I
7 have seen those substances listed in probably fourth
8 and fifth grade materials.

9 Q. So children as young as nine or ten are
10 learning about the chemicals contained in ETS?

11 A. Correct. Well, contained in tobacco.

12 Q. In tobacco smoke?

13 MR. LERNER: Off the record.

14 (Discussion off the record.)

15 BY MR. LERNER:
16 Q. One of the documents you produced today
17 was also Exhibit 179 which does not appear to have a
18 cover page. Will you identify what this document is,
19 please.
20 A. No. I can't actually. It was obviously
21 a resource document from the American Cancer Society
22 that I picked up somewhere and would have copied it
23 and used it as handouts for our trainings at various
24 times because they had good questions.
25 And at the very early days, especially
26 teachers didn't know what to do, didn't have great
27 deal of background information. So I would have used
28 it as background information.

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1 (Defendants' Exhibit 179 was
2 marked for identification.)
3 Q. And there's a portion of this document
4 contains questions and answers pertaining to ETS; is
5 that correct?
6 A. Yes. There's at least three.
7 Q. And you're referring to the topics at
8 Numbers 45, 46 and 47 which are --
9 A. Correct.
10 Q. -- "What is passive smoking?" "Is
11 passive smoking hazardous?" and "Does passive smoking
12 affect children?"
13 A. Correct.
14 Q. And for what period of time did you use
15 this as a handout for your training sessions?
16 A. Probably during the 1992 to '94 time
17 frame. But I -- since it doesn't have a cover letter
18 or a date on it, I'm not absolutely positive. That
19 was the time when teachers were concerned about those
20 kind of things.
21 Q. So this is during a period of time when
22 you were actually going to obtain your own
23 resources --
24 A. Right.
25 Q. -- and provide them to teach --
26 A. Right. Pass them on.
27 MR. LERNER: Off the record.
28 (Discussion off the record.)

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1 (At this time Mr. L'Orange and Ms. Thro
2 reentered the deposition room.)
3 BY MR. LERNER:
4 Q. You produced today Exhibit 180 which is
5 an article called "Responding to Tobacco Industry
6 Attacks on the Scientific Evidence Linking Secondhand
7 Smoke to Disease and Death" by Michael Siegel, M.D.
8 And it appears to be on letterhead or handout of
9 Americans for Nonsmokers' Rights. Is this a document
10 that you've used in training?
11 A. Yes. I've -- I would -- I tend to copy
12 things like this and take them to the advisory
13 committee meetings, make them available. And also
14 whenever they came out, if there are trainings around
15 that time that pertain to like tobacco, I would have
16 taken them to trainings.
17 (Defendants' Exhibit 180 was

18 marked for identification.)
19 (At this time Mr. L'Orange and Ms. Thro
20 exited the deposition room.)
21 BY MR. LERNER:
22 Q. So it's been your practice to obtain
23 articles pertaining -- relating to the dangers or
24 evidence of hazards of secondhand smoke and passing
25 them on at your training sessions or advisory
26 committee meetings?
27 A. Not specifically secondhand smoke but
28 things that would be helpful in the teaching of

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1 different pieces of the tobacco curriculum. So
2 obviously secondhand smoke is one of these.
3 Q. And this is one of the articles you
4 passed out?
5 A. Correct, uh-huh.
6 Q. And another document that you've produced
7 today is Exhibit 181. And can you tell us what this
8 document is?
9 A. This document was mailed out from the
10 Prop 10 group which our county calls The Children and
11 Families Commission of Santa Barbara County. This
12 particular one was on "Millions of California Children
13 Still Exposed to Tobacco Smoke; Harms to Health,
14 Higher Costs Result."
15 And so I thought that would be something
16 that -- I just received this within the last month or
17 so -- that I will copy and make available at upcoming
18 meetings and trainings.
19 (Defendants' Exhibit 181 was
20 marked for identification.)
21 Q. So this is not a document that at this
22 point you've used in your trainings or at your
23 advisory committee meetings?
24 A. No. We haven't had one since I received
25 it.
26 Q. But you are planning to make use of it?
27 A. I am.
28 Q. Did the advisory committee receive

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1 information concerning Prop 10 when it was -- before
2 it was adopted?
3 A. Yes. And Superintendent Cirone is on the
4 commission.
5 MR. LERNER: Okay. Let's go off the record.
6 (Recess.)
7 BY MR. LERNER:
8 Q. Mrs. Waldau, Exhibit 182, I'll show you,
9 is a copy of some greeting cards you produced today.
10 Is that correct?
11 A. Correct.
12 (Defendants' Exhibits 182A through 182C
13 were marked for identification.)
14 Q. And these greeting cards all -- deals
15 with the topic of secondhand smoke?
16 A. The samples that I brought today do.
17 Q. And who produced these greeting cards?
18 A. We had a cartoonist go to seventh grade
19 classes at three different schools in 1998. And
20 Lompoc Middle School, all of their classes

21 participated in a cartoon contest to come up with an
22 ad against the hazards of tobacco. And we chose ten
23 winners. And we made them into little greeting cards
24 which we gave back to the -- the winners -- the kids.

25 And we used -- have given them out to
26 districts and to -- as prizes at teacher trainings
27 and --

28 Q. Have there been other types of contests

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1 that have dealt with secondhand smoke?

2 A. This was only tobacco. And the children
3 that did these chose environmental tobacco smoke as
4 their topic. But I know that during Red Ribbon
5 Week -- and there's also essay and cartoon and
6 different contests. So the children -- obviously this
7 represents something that they know about.

8 Q. Another document you brought today is
9 Exhibit 183 entitled "The Risks of Secondhand Smoke."
10 What is this document?

11 A. It's a little leaflet, little pamphlet.
12 I try to pass on the resource pamphlets that I can get
13 a hold of either for free or I purchase them from
14 American Cancer Society or the Lung Association. And
15 I pass these on to -- at trainings and at the advisory
16 committee and hand them out at schools for them to use
17 at back-to-school nights and --

18 (Defendants' Exhibit 183 was
19 marked for identification.)

20 Q. I notice this item has a copyright date,
21 1989, California Medical Association. Can you recall
22 when you first began using this item as a handout?

23 A. No. I'm sorry. I'm not sure. It's just
24 in my box of -- of handouts and resources that I
25 continue to use. So I'm not really sure.

26 Q. Has it been there for some years?

27 A. I'm sure it has.

28 Q. Can you estimate how many?

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1 A. Probably -- well, that's one of the media
2 campaign commercials that they ran on T.V. with the
3 dog smoking. Probably at least five years. Probably
4 more.

5 Q. And to whom have you handed this out?

6 A. Like I said, I would have handed it -- I
7 would have put them on resource tables at trainings,
8 at the advisory committee meetings which is where most
9 of our districts pick up a lot of resources.

10 Q. So when you hold a training or advisory
11 committee meeting, you put printed materials out on a
12 table?

13 A. Absolutely, yeah.

14 Q. And that's available for people to take
15 and review as they wish?

16 A. Or take a handful and pass them out to
17 the class or whatever they can use them for.

18 MR. LERNER: Hold on a second.

19 (Discussion off the record.)

20 BY MR. LERNER:

21 Q. Can you identify Exhibit 184, please.

22 A. 184 was a mailing list of coordinators
23 for the different school districts for Safe and

24 Drug-Free Schools and Tobacco-Use Prevention
25 Education.
26 (Defendants' Exhibit 184 was
27 marked for identification.)
28 Q. Okay. This document is called "DATE

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1 Coordinators," has the date 1995 handwritten at the
2 top. Does this document reflect who was on your
3 advisory committee in 1995?

4 A. It reflects all of the district
5 coordinators that are invited to the advisory
6 committee. They don't all come.

7 Q. And these are the district coordinators
8 within Santa Barbara County at that time?

9 A. That's correct.

10 Q. Okay. And can you identify Exhibit 185?

11 A. 185 is the mailing list that I use as the
12 county -- for the county advisory committee meetings
13 which, again, includes the current coordinators of --
14 with the two prevention programs in districts in Santa
15 Barbara County. And it also includes some
16 community-based organizations and individual district
17 people that come to the advisory committee meetings.

18 (Defendants' Exhibit 185 was
19 marked for identification.)

20 Q. And how does this group differ from the
21 group that's reflected on Exhibit 184?

22 A. 184 is just the county DATE coordinators.
23 Doesn't include the other people that used to come to
24 the advisory committee meetings from other
25 organizations.

26 Q. And the term DATE coordinator now is no
27 longer used?

28 A. That's correct.

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1 Q. What's the current terminology for
2 persons occupying that position?

3 A. Safe and Drug-Free Schools and/or TUPE
4 coordinators.

5 Q. Now, do you have any liaison role with
6 the PTA?

7 A. No, I don't.

8 Q. So information that may be distributed by
9 the PTA relating to ETS would come from places other
10 than you?

11 A. Correct. Susan Ham's office I think
12 coordinates with PTA.

13 Q. Okay. Let's mark this. We've marked as
14 Exhibit 186 a couple pages from "The Mission Bell"
15 issue for March/April 1998. And what's the 15th
16 District refer to?

17 A. The 15th District would be the district
18 of PTA that Santa Barbara County is in.

19 (Defendants' Exhibit 186 was
20 marked for identification.)

21 Q. And what is "The Mission Bell"?

22 A. It's the first time I've seen it.

23 Q. You're not familiar with that document?

24 A. No, I'm not.

25 Q. Okay.

26 A. Looks like one of the newsletters.

27 Q. Do you know Kath -- do you know who
28 Kathleen Modugno is?

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1 A. No.
2 MR. LERNER: Okay. Off the record.
3 (Discussion off the record.)
4 BY MR. LERNER:
5 Q. Exhibit 187 is a copy of a document
6 previously produced by the Education Office, a
7 memorandum from Dawn Dunn to DATE coordinator and/or
8 school administrator dated October 4, 1995.
9 A. This was a --
10 (Defendants' Exhibit 187 was
11 marked for identification.)
12 Q. Do you recognize this document?
13 A. Yes, I do.
14 Q. What is that?
15 A. It was a educational computer game that
16 she was making available to school districts
17 throughout the county suggesting it would be good for
18 Red Ribbon Week.
19 Q. In the third sentence down here says that
20 youth will learn about tobacco issues such as
21 secondhand smoke, peer pressure, and
22 media/advertising.
23 A. Yes, uh-huh.
24 Q. Are you familiar with that computer game?
25 A. I got a copy of it. I don't know that I
26 ever -- whether I had a computer at the time that
27 would -- that would take it.
28 Q. Do you know whether that was made

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1 available?
2 A. It was made available. I don't know
3 which districts might have chosen to use it.
4 Q. And do you happen to have a copy?
5 A. Not anymore.
6 Q. Okay. Was it a resource that you made
7 available?
8 A. No. I would have just passed, you know,
9 the memorandum on.
10 Q. Okay. Exhibit 188 is a -- I guess a
11 three-page document that appears to have come from the
12 United States Environmental Protection Agency dated
13 July 1993 and appears to deal with the subject matter
14 of secondhand smoke. Do you recognize that document?
15 A. Yes, I do.
16 (Defendants' Exhibit 188 was
17 marked for identification.)
18 Q. Okay. Is that a document that you made
19 available to district coordinators or other people as
20 a resource material?
21 A. Yes. That would have been one of the --
22 it was actually a pamphlet, and it would have been
23 made available at meetings and trainings.
24 Q. And beginning at what period of time did
25 you make this document available?
26 A. I'm not really sure.
27 Q. Approximately? Do you have an estimate
28 as to approximately how long ago you may have begun to

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1 use it?
2 A. If there's a date on it, I began using it
3 as soon as I got it.
4 Q. There's a document date on it, July 1993.
5 A. That would --
6 Q. -- refresh your recollection?
7 A. That would probably be when I used it. I
8 tend to use things as they're new and as they come in.
9 Q. So this would have been something that
10 was topical at the time it came out?
11 A. Right.
12 Q. And you used it for a period of time
13 afterwards?
14 A. Probably '93 to '95.
15 Q. Okay. Can you identify Exhibit 189,
16 please.
17 (Defendants' Exhibit 189 was
18 marked for identification.)
19 A. Yes. It's another resource on the
20 effects of secondhand smoke. And I'm sure we used
21 these in teacher training packets and with the
22 advisory committee and district coordinators. So
23 whenever we would have had a training, for example,
24 for the guide that we started with in 1993, the
25 tobacco, we made folders with resource documents in
26 the thing as well as the teacher's guide.
27 And we would hand them out during those
28 trainings.

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1 Q. So they were packets that were --
2 A. Put together by me.
3 Q. You put together. And they were for each
4 teacher or each person being trained?
5 A. Correct.
6 Q. And this document has a reference at the
7 bottom to the Tobacco Education and Control Program,
8 Ventura Public Health Services. Were there other
9 materials that you recall receiving from Ventura
10 County or -- well, strike that. Let me show you
11 Exhibit 190, a document called "How Cigarette Smoke
12 Hurts You and Your Family," February 1993.
13 A. Yeah. I've also used this document in
14 the same way as adjunctive materials in trainings and
15 advisory committee and --
16 (Defendants' Exhibit 190 was
17 marked for identification.)
18 Q. All right. Exhibit 189 which is called
19 "What We Know About the Health-Damaging Effects of
20 Secondhand Smoke" is dated January 1993.
21 A. Uh-huh.
22 Q. So do you recall when you were passing
23 out Exhibit 189?
24 A. Since both of those are '93 -- like I
25 say, I think that's when there was topical information
26 coming out on environmental tobacco smoke, and so we
27 would have continued to pass it out till we felt it
28 was old news.

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1 Q. Okay. And by what time do you think that
2 Exhibits 189 and 190 were old news?

3 A. Well, in terms of me passing out to a
4 limited number of -- of coordinators or whatever, it
5 would have been within a couple of years.
6 Q. All right. So by about the beginning of
7 1996?
8 A. (Witness nods head.)
9 Q. Okay.
10 A. Yes.
11 Q. Now, can you identify Exhibit 191,
12 please.
13 A. Well, it's my brother's business card,
14 obviously, when he was working with us. And it must
15 have been resource material that he received from the
16 California Medical Association. Probably picked it up
17 at a training or conference.
18 (Defendants' Exhibit 191 was
19 marked for identification.)
20 Q. Let me just ask you a question: Do you
21 recognize the handwriting at the bottom of page 1?
22 A. Looks like my handwriting.
23 Q. Okay. And do you see a date on it there?
24 A. 2/9/94. It says sent to Buellton,
25 Orcutt, Santa Maria High and Santa Maria-Bonita School
26 Districts.
27 Q. And what does that reflect?
28 A. That we would have sent this particular

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1 piece to those districts.
2 Q. And this was Tobacco-Free California
3 document: "Attention Teachers, Secondhand Smoke is No
4 Joke"? Is that what you're saying you would have sent
5 to those districts?
6 A. Right. This is a piece from the
7 California Medical Association.
8 Q. This document refers to a -- something
9 called the Hansen Award.
10 A. I really don't remember anything about
11 it.
12 Q. Are you familiar with that?
13 A. No, no. It would just be a resource that
14 came across our path that we thought those districts
15 might be interested in and passed it on.
16 Q. Okay. It refers to a theme for a 1993,
17 1994 project Kids and Secondhand Smoke. Do you recall
18 whether any districts entered or had children who
19 entered into that contest?
20 A. I really don't know.
21 Q. And Exhibit 192 is a document from
22 Tobacco Control Section called "What Californians
23 Believe About Environmental Tobacco Smoke." And
24 actually looks like it's a two-page document from
25 1994, '95 with an attachment related to the California
26 Adult Tobacco Survey from June '96. Do you recognize
27 this document?
28 A. That would be something that I received

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1 out of Dawn Dunn's office over at the Public Health
2 Department.
3 (Defendants' Exhibit 192 was
4 marked for identification.)
5 Q. And then would you have made the Tobacco

6 Control Section portion there, the first two pages, a
7 resource that was for teachers or people you trained?
8 A. Probably not because it's mainly about
9 work sites and restaurants and -- we might have handed
10 it out at the advisory committee, but I really don't
11 remember.
12 MR. LERNER: Okay. Okay. We don't have -- off
13 the record.
14 (Discussion off the record.)
15 (At this time Mr. L'Orange
16 reentered the deposition room.)
17 MR. LERNER: Mark that.
18 Q. One of the curriculums that you work with
19 is Healthy Generations Healthy Learners; is that
20 correct?
21 A. I worked with that for a couple of years
22 when it was new.
23 (Defendants' Exhibit 193 was
24 marked for identification.)
25 Q. Okay. And when was this program new?
26 A. What's the date on the curriculum? 1993.
27 Probably worked with districts on this curriculum from
28 about '93 to '95.

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1 Q. Exhibit 193 is a brochure Healthy
2 Generations Healthy Learners program called "Prenatal
3 Substance Use Prevention Education, Summary of Effects
4 of Alcohol, Tobacco and Other Drugs on Developing
5 Babies and Children."
6 And are there references to health
7 effects of ETS in this document?
8 (At this time Mr. L'Orange
9 exited the deposition room.)
10 THE WITNESS: They mention under the effects of
11 growing children increasing chances of developing
12 colds, asthma and other respiratory problems, more
13 often hospitalized for pneumonia or bronchitis. And
14 then they refer to things that would have happened
15 during gestation that also show up in the child.
16 BY MR. LERNER:
17 Q. And how was this particular exhibit used
18 by you in your work as tobacco education consultant?
19 A. The Healthy Generations Healthy Learners
20 program is a mandated 7 through 12 substance abuse --
21 prenatal substance abuse education program. And it's
22 not just for pregnant parenting minors. It is for the
23 general population 7 through 12.
24 So they were supposed to have identified
25 at least once during junior high and once during high
26 school in what classes and in what grade levels this
27 program would be taught. This particular exhibit is
28 one of the pieces of curriculum that were developed by

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1 a contract through the California Healthy Kids Office,
2 Sacramento County Office of Education developed and
3 made available just at cost to districts throughout
4 the state.

5 It has several other pieces of curriculum
6 and resource pieces. It's a curriculum that we did do
7 training in our county for school districts. I worked
8 as a consultant with the Healthy Kids Resource --

9 not -- Healthy Kids -- Region 8 Healthy Kids Office
10 out of Ventura to contact individual districts to make
11 sure they had program requirements and curriculum.
12 MR. LERNER: Off the record.
13 (Defendants' Exhibits 194 through 215
14 were marked for identification.)
15 (The deposition adjourned at 5:00 p.m. to be
16 resumed at 9:30 a.m. on Tuesday, April 11, 2000.)
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1 DEPONENT'S DECLARATION
2 STATE OF CALIFORNIA,)
3)
4 COUNTY OF SANTA BARBARA.)

5 I, LORRAINE WALDAU, hereby declare:
6 I have read the foregoing deposition transcript
7 and identify it as my own and approve same.
8 I declare under penalty of perjury under the
9 laws of the State of California that the foregoing
10 testimony is true and correct.
11 Dated this _____ day of _____, 2000,
12 at _____, California.
13
14

15 _____
16 LORRAINE WALDAU
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1 REPORTER'S CERTIFICATE

2 STATE OF CALIFORNIA,)
3) SS.
4 COUNTY OF VENTURA.)

5 I, MARTHA A. ADAMS, CSR 10345, a Certified
6 Shorthand Reporter for the State of California, hereby
7 certify:

8 That prior to being examined, the witness named
9 in the foregoing deposition, to wit, LORRAINE WALDAU,
10 was by me duly sworn to testify the truth, the whole
11 truth, and nothing but the truth;

12 That the deposition of the witness in this
13 proceeding was taken down by me in stenotype at the
14 time and place therein named and thereafter reduced to
15 typewriting by computer-aided transcription under my
16 direction.

17 I further certify that I am not interested in
18 the event of the action.

19
20 WITNESS my hand this _____ day of _____,
21 2000, at Camarillo, California.

22
23 _____
 Certified Shorthand Reporter
 State of California
 CSR No. 10345, RPR

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